PRINCIPLES

OF

MORAL AND POLITICAL SCIENCE.

PRINCIPLES

OF

MORAL

AND

POLITICAL SCIENCE;

BEING CHIEFLY A

RETROSPECT of LECTURES delivered in the COLLEGE of EDINBURGH.

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IN TWO VOLUMES.

Huc enim pertinet, animal hoc providum, ſagax, multiplex, acutum, memor, plenum rationis et conſilii, quem vocamus hominem, præclara quadam conditione generatum eſſe a ſummo Deo. CIC. DE LEGG. Cap. VII.

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ERRATA.——VOL. II.

Page 89. l. 12. *for* ftates *read* ftakes.
Ibid. Note, *for* ferva *read* feria; *for* defecerant *r.* defecerunt; *for* contendant *r.* contendunt.
92. l. 27. *for* fake *read* the fake.
168. Note, *for* aftringimus *read* aftringimur.
199. l. penult. *for* relation *read* relations.
224. l. 24. *for* fentiment *read* fentiments.
269. l. penult. *for* that *read* like that.
294. l. 20. *for* their *read* there.
301. l. antipenult. *for* effect *read* affect.
Page 319. Note, at bottom, *dele* Rex vixit male.
364. l. 15. *for* principle *read* principal.
387. l. 12. *for* will *read* well.
414. l. 6. *for* I *read* It.
442. l. 26. *dele* being.
448. l. 21. *dele* 2d, Or.
468. l. 10. *dele* not, *for* as to *read* not to.
469. l. 15. *dele* is.
493. l. 12. *for* ties *read* duties.
509. l. 25. *for* man *read* human.

PRINCIPLES

OF

MORAL AND POLITICAL SCIENCE.

PART II.

Of Moral Law, or the Diſtinction of Good and Evil, and its Syſtematic Applications.

CHAP. I.

OF THE SPECIFIC GOOD INCIDENT TO HUMAN NATURE.

SECTION I.

Introduction.

THE diſtinction of phyſical and moral ſcience has been ſtated in the former part of this work; the one being occupied in ſolving queſtions of theory or fact, the other in ſolving queſtions of right: But, notwithſtanding the propoſed method required that queſtions of fact, or mere explanation, ſhould be conſidered a- PART II. CHAP. I. SECT. I.

PART. II. CHAP. I. SECT. I.

part from queſtions of eſtimation and choice; yet the good of which man is ſuſceptible, and the evil to which he is expoſed, having frequently occurred, as facts of the greateſt importance relating to him; and the advancement of moral ſcience itſelf having made a conſiderable article in the hiſtory of his purſuits and attainments; it was impoſſible not to touch upon theſe ſubjects, in laying the foundation of this more particular diſcuſſion, in which we are now to proceed.

Having, however, in the former part, chiefly attended to the facts conſtituent of man's actual ſtate, and ſerving to form his capacity and give intimation of his future proſpects; we are now, in the continuation of our method, come to a point at which the diſtinction of good and evil, and its applications, are the direct and immediate objects of our inquiry. But as in the paſt, where the ſtatement of fact was the principal object, we could not always with-hold ſome view to its conſequence; ſo now, although our principal object is to purſue the inference to be drawn from facts already ſtated; yet, as we may, by referring to former obſervations, ſometimes incur the charge of repetition; it is hoped that the favour, due to a ſubject ſo important, may plead in excuſe of the neceſſary references, even if they ſhould be repeated.

Science, in every application of the term, implies the knowledge of ſome one or more general principles with their applications, whether in directing the will, or in explaining appearances, and connecting together our conceptions of things.

The ſpecific principle of moral ſcience is ſome general expreſſion of what is good, and fit to determine the choice of moral agents in the detail of their conduct.

To inveſtigate ſuch a principle relating to man, it will be neceſſary to recollect what is known of himſelf; and of the ſituation in which he is placed. Our information is to be collected from his experience of what is agreeable or diſagreeable to him, and the reſult will amount to a choice of that, on which he is chiefly to rely for his happineſs, and to a caution againſt that, of which he is chiefly to beware as leading to miſery.

Theſe firſt and principal points of choice or rejection being fixed, the lines of moral wiſdom and precept will flow from them in every direction, whether leading to the diſcernment of perſonal qualities, the foundations of law, manners, or political eſtabliſhments.

The diſtinction of good and evil originates in the capacity of enjoyment and ſuffering. Inſomuch that, without the intervention of mind, or ſome feeling nature, all the varieties of matter and form beſides, would be indifferent. Good may be defined, that which being enjoyed conſtitutes happineſs; and evil, that which being incurred conſtitutes miſery.

Philoſophers of old employed themſelves chiefly in ſearch of a ſupreme good; and the term was familiar in the language of their times. We are told of two principal opinions which were entertained on this ſubject. One, that pleaſure, another, that virtue was the chief good. But as the patrons of the firſt could not propoſe to aſſert, that all pleaſures were equal, no more could the other mean, that virtue was not a pleaſure. They were agreed indeed in the general aſſertion, that what they termed virtue was the only ſecure and true ſource of enjoyment; but they deſcrib-

PART II. CHAP. I. SECT. I.

ed their virtues differently. Though to both it was a ſtate of tranquility and exemption from fear and ſorrow, this exemption was ſuppoſed by the one to be obtained by a ſecluſion from care, and by indifference to all the concerns of mankind, whether private or public. By the other, virtue was ſuppoſed to conſiſt in the affectionate performance of every good office towards their fellow creatures, and in full reſignation to providence for every thing independent of their own choice. Their different ſchemes of divinity clearly pointed out their oppoſite plans of morality alſo. Both admitted the exiſtence of God. But to one the deity was a retired eſſence enjoying itſelf, and far removed from any work of creation or providence *.

The other conſidered deity as the intelligent principle of exiſtence and of order in the univerſe, from whom all intelligence proceeds, and to whom all intelligence will return; whoſe power is the irreſiſtible energy of goodneſs and wiſdom, ever preſent and ever active; beſtowing on man the faculty of intelligence, and the freedom of choice, that he may learn, in acting for the general good, to imitate the divine nature; and that, in reſpect to events independent of his will, he may acquieſce in the determinations of providence. " How great is the privilege of man," ſays Antoninus, " to have it in his power to do what God will approve, and " to receive with complacency whatever God ſhall ordain."

In conformity with theſe principles, one ſect recommended ſecluſion

* Omnis enim, per ſe, divum natura, neceſse 'ſt
Immortali ævo ſumma cum pace fruatur,
Semota ab noſtris rebus, ſejunctaque longe;
Nam privata dolore omni, privata periclis,
Ipſa ſuis pollens opibus, nihil indiga noſtri,
Nec bene promeritis capitur nec tangitur ira.

clufion from all the cares of family or ftate. The other recommended an active part in all the concerns of our fellow-creatures, and the fteady exertion of a mind, benevolent, courageous, and temperate. Here the fects effentially differed, not in words, as is fometimes alledged, but in the views which they entertained of a plan for the conduct of human life and the choice of their actions. The Epicurean was a deferter from the caufe of his fellow-creatures, and might juftly be reckoned a traitor to the community of nature, of mankind, and even of his country, to which he owed his protection.

The Stoic enlifted himfelf, as a willing inftrument in the hand of God, for the good of his fellow-creatures. For himfelf, the cares and attentions which this object required, were his pleafures; and the continued exertion of a beneficent affection, his welfare and his profperity.

It is by no means indifferent what opinions we fhall entertain on thefe fubjects. Good and evil are known or apprehended by us under a variety of denominations. And happinefs or mifery are fuppofed to be conftituted by the diftribution of thefe in our lot. If the things we term good be inconfiftent one with another, it is furely of confequence to the moft unthinking mind to afcertain where the preference is due; and, when this point is determined, to avoid the diftraction of a doubtful choice on any particular occafion. If, on the contrary, the objects ftated under the denomination of good, when well underftood, coincide in their effects, it is reafonable that we trace them to this point of coincidence, and reft the project of happinefs or fafety, not on any partial and exclufive felection; but on the proper ufe and conduct of the whole.

The

PART II. CHAP. I. SECT. I.

The terms in common uſe under which we diſtinguiſh the ſubjects of deſire and averſion, are chiefly *Pleaſure* and *Pain*, *Beauty* and *Deformity*, *Excellence* and *Defect*, *Virtue* and *Vice*, *Proſperity* and *Adverſity*; or, in a form more comprehenſive, and ariſing from the diſtribution of theſe, *Happineſs* and *Miſery*. Under one or other of theſe titles we ſhall probably find every conſtituent of good or of evil; and, in following the track of ordinary experience or reaſon, arrive at a final deciſion of what is beſt for mankind, and eſtabliſh a principle of eſtimation and choice, upon which to determine every queſtion of right or propriety relating to the affairs of men.

SECTION

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SECTION II.

Of Pleaſure and Pain, or Things agreeable and diſagreeable in general.

UNDER this title will occur to be mentioned pleaſures and pains of mere ſenſe, of affection and paſſion, of active exertion and conduct. PART II. CHAP. I. SECT. II.

Pleaſure and pain, for the moſt part, are co-relative terms: Where any circumſtance is pleaſant, the privation of it is painful; and, converſely, where any circumſtance is painful, exemption from it is pleaſant. Upon this account, when we have ſpecified the one, it will not always be neceſſary to mention the other.

In the actual arrangements of nature, throughout the animal kingdom, things ſalutary are pleaſant, and things pernicious are painful. Pleaſure is made an inducement to the performance of thoſe functions, which are required to preſervation or well-being; and pain is employed as a warning to avoid the occaſions of deſtruction or harm.

When

PART II. CHAP. I. SECT. II

When a certain end is obtained in the uſe of a pleaſure, it is obſerved that the inducement to any farther exertion in that particular inſtance is withdrawn; and attempts to prolong or continue the gratification, as they might be pernicious, ſo they are attended not only with ſatiety, but even with diſguſt and pain.

As in this wiſe and beneficent inſtitution of nature, to preſerve her works, there are pleaſures attending all the ordinary and ſalutary functions of animal life, there are pains, alſo, which attend whatever is pernicious to the animal frame; and the final cauſe or purpoſe is evidently the ſame in both; that is, by inviting to what is ſalutary, by deterring from what is pernicious, to excite the languid animal to what is uſeful; and to rouſe the ſuffering animal to ſuch efforts as may be effectual to remove the occaſion of harm; and, in either way, to conſult his ſafety.

For this purpoſe, although the occaſions of pain, like the occaſions of pleaſure, may be temporary, yet, as it is neceſſary that the pain ſhould continue until the cauſe of harm be removed, or even that the pain ſhould increaſe while the cauſe of harm is increaſing, or the danger to animal life is augmented; there appears to be a ſufficient reaſon why ſufferings, incident to the animal frame, ſhould in many inſtances be of longer duration, and greater intenſity, than the correſponding enjoyments or pleaſures which are deſtined to recommend the ordinary functions of life.

It appears, therefore, with reſpect to animals in general, that the purpoſe of nature in the diſtribution of ſenſation, is to provide for the ſafety of the individual, and the ſucceſſion of the ſpecies, at the ſame time that an eſtabliſhment is made for enjoy-

ment, ſo far as is conſiſtent with theſe ends. In this diſtribution, there is a preſent reſtraint from what would be painful in the future; and a preſent direction to what may contribute to future enjoyment, as well as ſafety: And there is a ſufficient reward for the performance of functions which enter into the courſe of a regular and well ordered life. The individual, in general, is kindly amuſed and gratified in the act of preſerving himſelf and continuing his ſpecies, and the gratification or amuſement, in the caſe of moſt animals, is fitted to occupy a conſiderable part in the duration of life.

Man is ſuſceptible of animal pleaſure and pain, in a manner which argues the purpoſe of nature reſpecting him, to be nearly the ſame as with reſpect to other beings endowed with life. He alſo is deſtined to do what is neceſſary for his preſervation: but the mere gratifications of appetite which ſerve to obtain this purpoſe, are not fitted to occupy an equal portion of his time; and more is left, in his caſe, to the operation of principles in which he ſtands diſtinguiſhed from other parts of the animal kingdom. When his preſervation is ſecured, the life he preſerves ſtill requires to be otherwiſe occupied. Like the other animals, he enjoys his food, the ſupply of his wants, and the gratification of various appetites. But no one ever thought of prolonging the gratifications of hunger, for inſtance, ſo as to paſs a life of enjoyment at table, as ſome animals appear to do in the uſe of food, at their ſtall or their paſture.

If man were not too proud for ſuch a choice, nature has not qualified him to perſiſt in it. The pleaſures of ſenſe are merely occaſional and temporary. They are, in their nature alſo, mixed and alloyed with pain. Animals are to be deterred

 from

PART. II. CHAP. I. SECT. II.

from what is hurtful, as well as allured to what is ſalutary; and man himſelf, with all his knowledge of the end in view, muſt be prompted, in the detail of his actions, by the admonitions of pain as well as pleaſure.

The feeling, which prepares the animal ſenſe to be gratified in the ſupply of a want, is more or leſs a feeling of pain; and enjoyment is a mere relief from this feeling. Attempts to prolong the gratification beyond its natural period, bring a new ſpecies of pain, in the effect of ſatiety. Still more, exceſs of any kind is productive of ſuffering and harm: So that this ſource of enjoyment is ever impure, either in reſpect to the pain that precedes it, or in reſpect to the diſguſt and harm that may follow from the unguarded purſuit of enjoyment.

Whilſt men, therefore, may admire the order of nature in this particular, and comply with it as an article of good ſenſe and propriety, few, who are engaged in the ſpecific purſuits of human life, look upon the pleaſures of mere ſenſe as matters of principal regard. Moſt men become comparatively indifferent to their perſonal accommodations, in proportion as they are engaged in buſineſs, either private or public; or in the view of objects that ſtrongly affect them, in behalf of their own honour and intereſt, or in the cauſe of their family, their friend, or their country.

To the other animals, as well as to man, mere exerciſe is grateful; and the efforts they are led to make for the preſervation of life are, on this account, in part, conſtituent of their ordinary pleaſures. The ends, to which their active purſuits are directed, are ſubjects of hope; and give joy in the proſpect, as well as in the attainment or uſe. And, although the correſponding appre-

henſions of ills to be feared, may anticipate the ſufferings of ſorrow, yet the ſyſtem of animal life, in general, is ſo arranged, that, in the exertions required to ſelf-preſervation, the pleaſurable prevail over the painful; and the general aſpect of living nature is expreſſive of alacrity and joy.

The powers of reflection in the mind of man, that enable him to anticipate the future, as well as to recal the paſt, qualify him to enjoy, or expoſe him to ſuffer, from this quarter, in a much higher degree than any of the other animals. Hence ariſe the variety of his paſſions, hope and fear, joy and grief. The foundation of hope is the expectation of ſome good that is future, and therefore probably in ſome degree an occaſion of fear alſo. Grief has reference to ſome evil endured; fear, to an evil apprehended. Either is a painful ſtate of the mind, in actual diſtreſs, or in anxiety and ſolicitude, diſqualified for any preſent enjoyment beyond what mere hope can ſupply: But, with reſpect to the objects, whether of hope or of fear, the moſt agreeable ſtate of the mind is alacrity in the reaſonable exertions they ſuggeſt, and in the uſe of means to obtain or avoid them, which providence has put in our power.

Security is, of all circumſtances, the moſt conducive to pleaſure. Hence the value which *poſſeſſion* acquires in paſſing into *property*, that is, in being ſecured: and the moſt agreeable ſtate of the mind, in this reſpect, is the conſciouſneſs of a bleſſing of which neither chance nor caprice can deprive us. A bleſſing which conſiſts alone in the chearful performance of what we are entruſted to do, and in contentment with the ſcene of action in which we are placed.

PART II. CHAP. I. SECT. II.

Man has much of his employment, as well as the gratifications of ſenſe furniſhed to him by the concerns of of his animal life. In theſe conſiſt that complicated object which he terms his intereſt; and from thence ariſe many of the occaſions on which he is employed for himſelf, for his country, and his friend.

The materials, which he ſtrives to amaſs for his own uſe, ſerve him alſo as the means of beneficence to his fellow creatures. In his intelligent or diſtinctive character, his occupations multiply and vary indefinitely; and the mere ſupplies of animal life are to him of leſs conſequence, than the exertions of mind in which they engage him. In theſe his ingenuity and his affections are agreeably engaged in forming his deſigns, in recollecting his experience of the paſt, in conducting the preſent, and in preparing for the future.

It has been well obſerved, that every exerciſe of the human faculties, into which malice or fear do not enter as motives, and every exerciſe which is not carried to ſome pernicious extreme of fatigue, is in its own nature agreeable *.

"The neceſſity of action," ſays the Rambler, "is not only "demonſtrable from the fabric of the body, but evident from "obſervation of the univerſal practice of mankind †, who, for "the preſervation of health," (he ſhould have ſaid for pleaſure,) "in thoſe whoſe rank and wealth exempts them from the neceſ"ſity of lucrative labour, have invented ſports and diverſions, "though not of equal uſe to the world with manual trades, yet of

* V. Theorie des Sentimens Agreeable.

† See Rambler No. 36.

" of equal fatigue to thoſe who practiſe them; and differing on-
" ly from the drudgery of the huſbandman or manufacturer,
" as they are acts of choice, and therefore performed without the
" painful ſenſe of compulſion. The huntſman riſes early, pur-
" ſues his game through all the dangers and obſtructions of the
" chace, ſwims rivers, and ſcales precipices, till he returns home
" no leſs harraſſed than the ſoldier, and has perhaps incurred
" ſometimes as great hazard of wounds or death; yet he has no
" motive to incite his ardour; he is neither ſubject to the com-
" mands of a general, nor dreads any penalties for neglect and
" diſobedience; he has neither profit nor honour to expect from
" his perils and his conqueſts; but toils without the hope of mu-
" ral or civic garlands, and muſt content himſelf with the praiſe
" of his tenants or companions."

" But, ſuch is the conſtitution of man," continues the ſame author, " that labour may be ſtiled its own reward; nor will any " external incitements be requiſite, if it be conſidered how much " happineſs is gained, and how much miſery is eſcaped by fre- " quent and violent agitation of the body."

This author, in other parts of his work, or throughout the general ſtrain of the whole, repreſents human life as a ſtring of illuſions, a tranſition from hope to hope, never from enjoyment to enjoyment: It is pleaſant, therefore, to find him acknowledge a ſource of preſent enjoyment, even amidſt drudgery, toil, and danger, ſo frequently ſtated by himſelf as conſtituents of miſery: It is pleaſant to find him acknowledge, that, even labour is its own reward; and, in this ſtep at leaſt, lead the way to an opinion, that all the exerciſes of a manly, and beneficent mind, though a ſpecies of labour, may alſo be their own reward, and not the

leſs

PART II. CHAP. I SECT. II. leſs a reward to him who labours in them, that he may be acting under the influence of an affection, alſo, in its own nature complacent and agreeable.

Even the vulgar are aware that to be happy, they muſt be employed, or have ſomething to do; and it is obvious to the moſt ſuperficial obſerver; that life is agreeable chiefly to thoſe, who, being engaged in ſome juſt and honourable purſuit, in any laudable profeſſion, public truſt, or employment, do not embarraſs themſelves with any thing beyond the diſcharge of their duty. In contraſt with theſe, we may place the examples of others who are ever ſo intent on the future as to neglect the preſent. Who ſhrink from the duties of their ſtation, under the notion of trouble, who decline any concern in the welfare of others, as an avocation from the care of their own. They would have ſomething to do: But ſeem to think that their occupations ſhould approach the neareſt that is poſſible to idleneſs. They fly from buſineſs; for it ſeems to be a taſk. They do not conſider how they may benefit others; for, that were to neglect themſelves: but they ſwim rivers and ſcale precipices, becauſe they are at liberty to do ſo, and becauſe they can afford the expence of horſes and dogs.

Living natures in general are diſtinguiſhed by the exertions they are qualified and diſpoſed to make. Man, as we obſerved, ſtands foremoſt in this diſtinction. His exiſtence conſiſts in a ſeries of active exertions, and he enjoys the exerciſe of his faculties in the conduct of affairs, and in buſineſs, no leſs than in what he is pleaſed to term amuſement and paſtime.

Benevolence is an active principle, and an agreeable ſtate of the mind, rendering the preſence and welfare of other men an occaſion

occaſion of pleaſure, and fitting the individual to his relation in fraternity of natures like his own. The pleaſures of ſociety are the exerciſes of a ſocial nature. They mix with the functions of animal life, and are, in reality, the principal cauſe of many enjoyments which are ſuppoſed to reſult from the gratifications of ſenſe. The pleaſures of the table, for inſtance, are more thoſe of ſociety than of gratified appetite. Whence it is elſe that the meal, when taken alone is a mere ſupply of neceſſity; but in company, and in the gaiety of ſociable intercourſe, is of ſo much conſideration among the enjoyments of life?

To be employed is agreeable; but employments differ no leſs than ſenſations. The employments of a mild and benevolent affection are placid and happy. Thoſe of a rancorous and malicious temper are convulſive and wretched.

Many of the objects which we endeavour to obtain in human life, like the game that is purſued by the hunter, are chiefly to be valued for the chace they occaſion. But it is not, therefore, indifferent on what object we beſtow our labour. As things viſionary or impracticable lead to certain mortification and diſappointment, ſo things depending on chance, or the will of other men, if conceived to be neceſſary, expoſe to like diſappointment; or, under the apprehenſion of adverſe events, are the occaſions of continual anxiety, dependence, and fear.

Things that are not of themſelves of any abſolute value, but exiſt merely in being compared with what is poſſeſſed by other men, as *dominion*, *precedence*, and *rank*, *renown*, and *celebrity*; even *riches* and *fortune*, beyond what is neceſſary to ſubſiſtence and well-being, engage us in purſuits that are not only precarious in the event, but in their nature ſubjects of competition, jealouſy

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jealoufy, envy and malice. The operation of parties in thefe purfuits are mutual impediment and mutual offence; and the efforts of one to better himfelf is confidered as an act of hoftility, or carries the afpect and the infection of malice to others.

Malice is known to be a ftate of extreme fuffering or pain; it operates abroad in pernicious effects, and appears on the countenance in peculiar features of deformity and horror. It has perhaps no other fource in the human mind, than this unhappy choice of an object, in which the profperity and fuccefs of one is difappointment and detriment to another. Or if this unhappy choice be fufficient to account for malice, we are forbidden by reafon to look for any other caufe. It is a maxim in reafon, that no more caufes are to be affigned, than exift in nature, and are fufficient to account for the phenomena *.

We may therefore venture to affume, that malice is no where inftinctive, but muft have proceeded originally upon fome preconceived notion of competition, of harm to one from the welfare of another, of provocation or fear; and is therefore, for the moft part, entertained in the form either of *Envy*, *Revenge*, or *Jealoufy*.

Thefe are the great fources of mifery to mankind. *Envy* is pain inflicted by another's good. *Revenge* is pain to be removed or alleviated, only by another's fuffering. And *Jealoufy* is pain fuffered under the apprehenfion of what another may do or may have done: All of them fufceptible of unequal degrees; but in the flighteft degree unhappy, and in the higheft degree conftitu-

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* Vide Newtoni Principia, lib. 3. ab initio.

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ent of extreme virulence and of anguifh, to which the prefence and welfare of a fellow creature alone, may give occafion; and, from which a being, who is doomed to fociety, has no means of efcape, but by removing the evil of his own difpofition.

Befides the propenfity of man to join the herd of his fpecies, a difpofition, which operates even with the malevolent, and is common to all the gregarious animals; the candid have, in their minds, a principle of affection, and love; a capacity of goodnefs by which they are difpofed or qualified, in different forms, to make a common caufe with their fellow-creatures. The diftrefs of another is to them an occafion of commiferation or pity; his welfare an occafion of complacency and joy. To the fociable nature of man, the joint exertions or ftruggles of numbers in the fame caufe together, bring into actual exertion, the higheft powers of enjoyment as well as of action.

Commiferation or pity, being a participation of diftrefs, implies fuffering, and yet is known to be agreeable; infomuch, that the humane do not wifh to be relieved of their pain otherwife than by the relief they can give to thofe they commiferate or pity. They regret the fuffering of others; but enjoy their own fympathetic emotions; willingly fhed the tears of compaffion, and in this feel, with the poet, that,

The broadeft mirth unfeeling folly wears,
Is not fo fweet as virtue's very tears.

Pity is prevented, in particular circumftances, by the prevalence of other paffions, whether *indignation*, *refentment*, or *fear*. *Indignation* hardens the heart againft thofe who fuffer for any

flagrant crime; *resentment* against those who have given provocation; and *fear*, though not a disposition to act offensively, yet hardens the heart against the feelings of candour or pity, more perhaps than any other passion: Hence, among the evils of cowardice we may justly reckon cruelty to the vanquished, no less than inability to contend with those that resist, or who alarm our fears.

Commiseration or pity, in the candid mind, is bestowed indiscriminately and universally on the innocent who suffers: But benevolence, in its other forms, is particular in its choice, and implies predilection for an object; whether the companion with whom we are familiar, the friend we love, or the country to the service of which we are devoted.

An agreeable intercourse may have place, even with persons unknown; or is easily formed, amidst the first or most general appearances of intelligence and fairness of disposition. The manners of the candid, even among strangers, constitute a mutual exchange of good offices, and in human life are an ordinary and continual source of agreeable sentiments.

In friendship, benevolence is the engagement of choice, and renders every interest mutual to the parties concerned. The affection in which it consists, and the confidence it inspires, constitute a principal source of security and pleasure.

Over and above these operations of a benevolent affection, man is qualified to entertain the same disposition, in a form yet more comprehensive. The collective body of men in a country or nation is, to its own members, an object of the most ardent affection.

While

While the citizen reveres the inſtitutions and the laws of his country, while he rejoices in its proſperity, and laments the calamity or diſtreſs which befals it, he is often made to forget himſelf, and to ſacrifice his own intereſt or ſafety as an individual, to that of the community in which he is included. Intereſt is frequently ſuppoſed to be the ruling paſſion of mankind; yet this ſacrifice of intereſt and of life, to the objects of public affection, is frequently made; and, under national eſtabliſhments that are happily conſtituted, is not above the reach of ordinary men.

The general tendency of benevolence, like that of the animal propenſities, is to preſerve the human race, and to render man uſeful to his fellow creatures; but, while the ſelfiſh principles operate to the preſervation of the whole, by preſerving or conſulting the ſafety of individuals apart, benevolence forms a general band of connection, and is at once a common ſource of enjoyment and pleaſure to many. It renders the participation of other men, in the favours of providence, an occaſion of ſatisfaction and joy. While it ſeems to render the humane a ſervant to the diſtreſſed; the affectionate devoted to the intereſt of his friend and his country; it renders this ſervice, and this devotion alſo, a principal ſource of enjoyment to himſelf: differing from the gratifications to which any mere animal propenſity is competent, in being exempt from ſatiety, and in being fitted, by occupying indefinite portions of time, to fill up the duration of human life, and to become not only the ſpring of particular and occaſional action, but the ſource and conſtituent of felicity to thoſe who act. So much that, in the courſe of a ſociable and beneficent life, and in the offices of private friendſhip, or of public ſtation, a perſon may occupy with ſatisfaction every moment that can be ſpared from the neceſſities of his own condition.

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But, over and above the pleaſurable or painful ſtate of our feelings, which ariſe from the proper or improper diſcharge of our animal functions; from the purpoſe to which we employ our faculties, and the manner in which we are affected towards our fellow-creatures; theſe very circumſtances become, by reflection, the ſource of additional enjoyment or ſuffering. Conſciouſneſs of propriety, in the conduct of our natural propenſities; attainments of knowledge, or intellectual ability; integrity, candour, and good-will to our fellow-creatures, are ſources of the pureſt ſatisfaction and pleaſure. The conſciouſneſs of brutality, folly, cowardice, malice, or guilt, on the contrary, is conſtituent of extreme ſuffering, in the feelings of ſhame, and remorſe.

It is ſupremely agreeable to perceive, in the works of nature, the marks or expreſſions of wiſdom and goodneſs, on which we may rely for the happy diſpoſal of all things: And we may conclude, from the whole of theſe particulars, that the preferable pleaſures of human life conſiſt in ſobriety, benignity of temper, or good will to mankind, and beneficent actions, with a perfect confidence in the wiſdom and goodneſs of Providence.

The contemplation of beauty and excellence, in whatever ſubject, is matter of delight, and forms an agreeable ſtate of the mind. The obtruſion of uglineſs or defect is of a contrary nature: And theſe are ſources of enjoyment and ſuffering peculiar to man. He alone, among the living natures known to us, appears ſenſible to the diſtinctions of beauty and deformity, of excellence or defect; and he alone, for ought we know, apprehends any gradation of worth in the ſcale of being. He alone applies the canons of excellence and defect, of merit and demerit, to himſelf, and to his fellow-creatures; finding a moſt agreeable ſtate of his mind in the

the consciousness of integrity and justice, or the most painful and distressing reflections in the consciousness of wickedness, debasement, and folly. Complacency and peace of conscience are expressions of the one; shame, remorse, and despair, are expressions of the other. PART II. CHAP. I. SECT. II.

The fool may enjoy his folly, and the madman may enjoy his frenzy; but no one will congratulate the persons who are so affected with pleasure. The enjoyments of human nature require the warrants of reason and truth; and no person, in his senses, can be reconciled to a state, in which he knows his own character to be marked with deformity, meanness, or vice, nor think that he can be truly happy, in the absence of every good quality which can be required to adorn or perfect his nature.

The foundations of a pleasure, so essential to happiness, merit a separate consideration in the following sections.

SECTION

SECTION III.

Of Beauty and Deformity, Excellence and Defect.

PART II. CHAP. I. SECT. III.

IN the rational nature of man, there are principles which do not terminate merely in ſenſibility to pleaſure and pain, or in mere active exertions; but conſiſt in a kind of cenſorial inſpection, over the general tenor of enjoyments and actions; ſerving to diſtinguiſh, among pleaſures, the elegant and beautiful from the inelegant and deformed; and, among ſpecimens of exiſtence, the perfect or excellent, from the defective or imperfect. Such is the diſcriminating power of intelligence, by which the qualities of things are eſtimated; by which unequal meaſures of worth are conceived, and the gradations of excellence aſſigned in the ſcale of being.

In the exerciſe of theſe reflex and cenſorial powers, there is great enjoyment and ſuffering, according as the objects of them are happily or miſerably diſtributed to ourſelves or others. *Diſguſt*, *indignation*, *remorſe*, and *ſhame*, are among the pains of

which

which they render us ſuſceptible; *delight*, *eſteem*, *approbation*, *confidence*, *love*, and *peace of mind* and *of conſcience*, are among their gratifications, or happy effects. PART II. CHAP. I. SECT. III.

In the diſcernment of external objects, there ariſes a ſentiment, which may be expreſſed in terms of praiſe or blame, of eſtimation or contempt; and which frequently conſtitutes, or ſenſibly modifies, the general affection of the mind, in reſpect to the diſtinction of good and evil; for, as good is pleaſant, ſo, alſo in many inſtances, is it eſtimable: As evil is painful, ſo alſo is it, in many inſtances, vile and contemptible.

Of theſe ſentiments, the ſpecific occaſions or objects are termed beauty and deformity, excellence and defect.

To perceive beauty or excellence, is to admire or eſteem: And, leaſt theſe expreſſions, which are applicable to ſubjects of the higheſt nature, ſhould appear too ſtrong, when applied to matters of inferior conſideration, in which ſome degree of beauty nevertheleſs may be admitted; let it be remembered, that it is the ſpecies of ſentiment, not any meaſure of the emotion, or degree of merit in its object, which we are now about to conſider.

Admiration and eſteem, like benevolence and love, are agreeable ſentiments; ſo much, that, to admire or eſteem and to be pleaſed with an object, are expreſſions often mutually ſubſtituted one for the other.

We are pleaſed with beauty and excellence; we are diſpleaſed with deformity and defect: But all that pleaſes is not beautiful or excellent; nor all that diſpleaſes, deformed or defective. We

know

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know not, however, frequently, how otherwife to exprefs the pleafure we take in any fubject, than by pronouncing it excellent or beautiful; nor how to exprefs the difpleafure we feel, otherwife than by pronouncing the caufe of it, ugly or defective. The wonderful organ of human language does not always ferve the purpofe of difcrimination, even where it is of the moft real importance to ftate the fubjects of confideration apart.

We may, neverthelefs, endeavour, in this place, to confider beauty and excellence, as diftinguifhable from other caufes of pleafure, by the fpecific accompanyment of efteem or preference, to which, even if no one fhould admire, we conceive the object entitled; and to confider deformity and defect as diftinguifhable from other caufes of pain by a peculiar fentiment of difapprobation or contempt; of which we conceive them to be proper objects, even if the world fhould not perceive the defect or the deformity.

Thefe fpecific fentiments, differing either in refpect to the occafion on which they arife, or the degrees of intenfity with which they are felt, have, in every language, a variety of appellations or names. In our language, *approbation* and *difapprobation*, *efteem* or *admiration*, oppofed to *indifference*, *difguft*, or *contempt*, make a part of the terms by which we exprefs them.

The ingenious author of fome Effays on the Nature and Principles of Tafte, has obferved, that material fubjects give fenfation and perception of reality; but no emotion or fentiment of beauty or deformity, except fo far as they are affociated with fome object of affection, whether character or difpofition of mind; chearfulnefs or melancholy, wifdom, goodnefs, or power.

 If

* Mr Alifon.

If a ſubject pleaſe, in conſequence of its being aſſociated with ſome object of eſteem, the delight it affords is properly enough claſſed with the ſpecies of ſentiment which we are now conſidering; but if it be aſſociated only with utility, ſafety, or joy, it may pleaſe in conſequence of this aſſociation: But the compound ſo made up is not any more a ſubject of admiration or eſteem, than is the pleaſurable circumſtance by which it is recommended. PART II. CHAP. I. SECT. III.

Attempts have been made to reſolve this principle of eſteem or admiration into ſome of the other principles or forms of proceeding, equally familiar in the operations of the human mind; and conſequently, to account for the uſe of theſe terms, without the neceſſity of ſuppoſing that there is in nature any diſtinction of excellence, or in us any diſtinctive faculty by which it is known. And it ſhould follow, from any theory of this ſort, that, in reality, we miſtake for eſteem ſome other operation or affection of mind: but, in ſuch ſubſtitutions of one ſpecies of affection for another, it does not appear that any advantage is gained. We neither can reſolve the ſentiment of admiration or eſteem into any thing better known than itſelf, nor the good qualities of mind, into any thing that, being more in our power, may ſhew us a readier way to the improvement of our nature.

We ſhall, therefore, be contented with giving to the ſentiments which beauty or excellence occaſions, ſome one of their ordinary names of preference, whether delight, approbation, or eſteem. The ſubjects of beauty and excellence themſelves, in the mean

 time,

time, though thus agreeing in the claſs of ſentiments to which they give occaſion, ſeem to be disjoined in nature; or by us, at leaſt, to be conceived apart. Beauty is ſometimes ſaid to cover defects; and excellent qualities are ſaid to be concealed under apparent deformities. Beauty frequently ſtrikes, from the firſt and more obvious aſpect of things; excellence is to be collected by obſervation of their eſſential qualities. Every perſon, that enters a room, preſents at once the beauty of which he is poſſeſſed. His excellence, in the mean time, or eſſential good qualities, are to be known only upon farther acquaintance. Theſe epithets, however, in proportion as the ſubjects of them come to be underſtood, gradually approach in their applications, and ſeem at laſt to unite in the ſame thing. When apparent beauty is found to conceal defects, it ceaſes to be admired, or even incurs contempt. When apparent deformities are found to conceal eſſential good qualities, we not only ceaſe to contemn, but, from a principle of retributive juſtice, are the more inclined in the ſequel to admire that we at firſt overlooked the value of our object, whether perſon or thing: So that the progreſs of intelligence in the diſcernment of excellence and beauty ſeems to terminate in a point, which unites theſe epithets into one general ground of preference; and which, in that caſe, we ſhall perhaps be more inclined to expreſs in the terms of perfection and excellence, than in that of elegance or beauty, which ſtill carry a reference to firſt and external appearances.

In the ſyſtem of nature, there is a beauty that belongs to the mechanical, to the vegetable, the animal, and intellectual kingdoms.

In the mechanical kingdom, the principal, if not the ſole conſtituent

ftituent of beauty, as the *Pere Buffier* has well obferved, *is order*; or, as the fame author farther explains this term, the *apt combination of parts, whether fimultaneous or fucceffive, for the attainment of a beneficent purpofe.*

Mere matter, though perceivable by fenfe, is in itfelf indifferent to any affection of the mind, except fo far as fome object of affection is affociated with it. With an apt combination of parts for a beneficent purpofe, are affociated the fupreme objects of admiration, love, and refpect; viz. *wifdom*, *goodnefs*, and *power*. The affociation is not cafual, or derived from mere analogy or likenefs, but from the effential and infeparable relation of caufe and effect.

The fyftem of nature is fublime in refpect to the might of its Author. It is beautiful, with refpect to the regular fitnefs of parts for the attainment of their ends, and in refpect to the beneficent purpofe which they are fitted to ferve. The latter circumftance, above all, is effential to their beauty.

The fruits of continual exertion, without the regularity that proceeds from a well-concerted defign, as in the meaninglefs activity of children and reftlefs animals, overturning and difplacing whatever comes in their way, produces diforder, confufion, and extreme deformity: The regular tradefman fhudders at their being admitted into his work-fhop.

A defign at the fame time may be perceptible; but, if directed by folly or malice, it is an object of difguft or of reprobation, not of admiration or efteem. The figures of birds, beafts, cones, or pyramids, cut out of an evergreen, in the antiquated garden, have

marks of defign; but frivolous, and contemptible. The piece of ftatuary, of which we are told, in the bull of Phalaris, or in the Apiga or fpoufe of Nubis, may have been exquifite in the workmanfhip; but the defign was hideous or cruel: And, as the mere indication of mind is ambiguous, the indication of perfidy and malice is horrid; beneficence alone, directed by wifdom, is fupremely beautiful.

In the material fyftem of nature, the beneficent purpofe of its Author is manifeft in the accommodations provided for beings diftinguifhed by their organization, or beings endowed with life. Thefe, in our terreftrial world, are plants, animals, and men. The elements are difpofed to promote the vegetation of plants; and thefe to furnifh their fubfiftence and place of abode to animals; and the whole to furnifh the materials of fupply, and the fubjects of thought and contemplation to the living and intelligent nature of man.

In the living kingdom of animals, the fame beneficent purpofe, while it extends to the general fyftem, partly terminates alfo in the animal himfelf. He is made that he may be gratified, as well as that he may gratify others; and both are effential to the excellence and beauty of his frame: For this his organization is admired, and the profperous ftate of that organization is fo much valued, under the denomination of health.

With refpect to man, alfo, the beneficent purpofe of nature, fo far as we are yet qualified to difcern it, terminates in himfelf; not in the individual confidered apart, but in the fubferviency of many to the common caufe of the whole. The individual is made that he may be gratified; but his chief gratification is made

to confift in beneficence, or a participation in the welfare of mankind. He is an active power in nature, which cannot fufpend its exertions, without incurring a ftate of wearinefs, fuffering, and difguft. He is a beneficent power in nature, to whom benevolence is pleafure, malevolence is pain; and who cannot willingly forfake the paths of beneficence, without incurring the chaftifement of remorfe. His beauty and excellence is a participation, however faintly obtained, of that wifdom and goodnefs which conftitute the fplendor and majefty of the works of God.

To perceive beauty, in any material fubject, is to perceive indications of wifdom and goodnefs; and, if we are afked, why wifdom and goodnefs fhould be admired? we may anfwer, For a reafon like to that for which pleafure is coveted; becaufe in itfelf defireable and good. While other things are defired or efteemed on account of the pleafure they give, or the excellence they conftitute, pleafure and excellence are themfelves defired or efteemed, on their own account.

In the fcale of natures fufceptible of excellence or perfection intelligence is fupreme, and wifdom and goodnefs are the fupreme perfections of intelligent being. Their prefence, when fuggefted by the order of nature, awakening the fentiments of admiration, are termed beautiful; but, in the mind itfelf to which they belong, are more properly termed its excellence, perfection, or merit. Folly and malice, on the other hand, may, in a figurative ftile, be termed the deformities of mind; but are more properly referred to the predicaments of defect, guilt, and demerit.

From the whole, there is reafon to believe, tl at beauty when real

real may be resolved into excellence and, that deformity may be resolved into defect; the one an essential distinction of good, and the other of evil: That both, or either, can have existence in mind alone; so that, in this question, man is doubly interested: He is concerned in the existence of excellence or beauty, as presenting him with an agreeable object of contemplation and love; but more especially as constituting an admirable state or condition of nature, attainable by himself.

In the human figure, there is one beauty of form in the structure of its organs, or in the sound state or configuration of the whole person, indicating exquisite design, wisdom, and goodness, of the Maker.

There is another beauty, consisting in the aspect and expression of the mind, that occupies and actuates this created frame, indicating good sense, equanimity, and benevolence of temper.

In both, it is the beauty of mind that strikes through the form of a work, or the aspect of a person: The wisdom and goodness of the Creator, in the one; or the good meaning and temper of his creature, in the other.

Where one of these beauties exists, in any degree, the other may be sensibly wanting. Thus, we are familiar with instances, in which personal defects are compensated with a favourable expression and benevolence of aspect; or instances in which natural advantages are deformed by an aspect of vanity, malice, or folly.

The antient artists, in the features of Medusa, though a Fury,

feigned to themſelves the moſt perfect form; or ſuppoſed her countenance to be caſt in the moſt exquiſite mold of natural beauty; but of an aſpect, derived from the temper within, ſo terrific and hideous, as to appal the moſt daring, and even to turn thoſe on whom ſhe looked into ſtone.

Mind, we have reaſon to believe, predominates in nature; ſo that, in a comparative ſurvey of all that exiſts, whatever is not mind would be as nothing.

It is *heat*, we are told, that gives ſpring and agitation to the mechanical world. Remove this ingredient, and all matter would freeze into one ſolid maſs, and become the formleſs repoſitory of inertia, darkneſs, and death.

In the ſame manner, and with ſtill greater confidence, may we not ſay, it is mind that ſtrikes out from the forms of body, in the lovely aſpects of excellence and beauty? And it is the diverſity of operating minds, in ſuch forms of matter, that gives the diſtinction of beauty and deformity to ſubjects otherwiſe, in their own nature, indifferent.

What were millions, and myriads of millions, of corpuſcular particles aſſembled in the body of the ſun, without the benignant power that renders him the ſource of heat and of light to ſurrounding worlds? What were theſe worlds without the beneficent impulſe that gives them motion, and retains them in their orbits, at a proper diſtance from the ſource of light and of heat? And what could avail their motions, without this combination of elements on their globes, that fit them for the reſidence of living natures?

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The ſame thing, multiplied through innumerable ſyſtems, owes its magnificence to the greatneſs of might and of thought, that acts in the formation and conduct of ſuch boundleſs ſcenes of exiſtence.

The diſtinction of excellence and defect, ſo obvious to man in the contemplation of his own nature, and ſo eaſily transferred by aſſociation to any of his works or external circumſtances, is the radical principle of elevation or progreſſion in the human mind, to which there is ever preſented, as an object of deſire, ſomething higher and better than is poſſeſſed at preſent. This principle, in all its forms, proceeds upon ſome pre-conceived notion of abſolute or comparative excellence, in reſpect to which the mind is never diſpoſed to acquieſce in its preſent attainment. Birth, fortune, power, and other conſtituents of rank, are the circumſtances in which the vulgar of every condition ſtrive to excel one another. The dwelling, the furniture, the equipage, and the table of the rich, flatter his vanity more than his ſenſe of pleaſure; and ſtir the emulation more than the appetite of thoſe who admire his condition.

Whoever would govern mankind, if he can command their conception of what is excellent, or lead them to aſſociate honour with the taſk he would have them to perform, will find no farther difficulty, in procuring from them every ſacrifice of pleaſure, intereſt, or ſafety. This, as we have formerly obſerved, is the honeſt man's integrity, and the gentleman's honour, which neither will forego to preſerve his fortune or his life. It is the ſoldier's glory, which renders danger and hardſhip agreeable; it is the martyr's crown, which renders extreme ſuffering, and the proſpect of death, an occaſion of triumph and joy.

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On a ſubject of ſo great importance, and of ſuch powerful effects in human life, it behoves us to examine our opinions, and to be well founded in the conceptions, to which we thus ſurrender and deliver up all the other powers of our nature. If there be an excellence or beauty, ſpecific to man, we may preſume that, in the contemplation and poſſeſſion of it, his ſupreme good, the moſt agreeable ſtate of his nature, and the happieſt courſe of his life is likely to conſiſt.

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SECT IV.

Of Virtue and Vice.

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WHen, in the manner of laſt ſection, we have reſolved the excellence and beauty of this created frame into the wiſdom and goodneſs of God; and return from this contemplation of nature to conſider, what is the ſpecific excellence of man; we muſt recognize in him at once a conſtitution or form received from his Maker, and together with the gifts of intelligence and free will, a perſonage and character to be aſcribed to himſelf. In reſpect to either, he is diſtinguiſhed in nothing ſo much as in this power and diſpoſition to perceive, with delight, an intelligent and beneficent Author in the ſyſtem of things around him. Were he thus to judge of any human production, his perception of beauty in the work would argue ſome participation in the genius of its Author. May we not therefore, conceive, that his admiration of what appears in the univerſe of God, implies ſome qualification to participate in the godlike principles of beneficence and wiſdom. In this ſyſtem, of which he is a part, the meaſures of providence are taken, and the deſign is carried into execution; he too is deſtined to act: But when we conſider the magnitude of

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this ſyſtem, and in how many ways, of which he cannot trace any tendency to the purpoſe of univerſal good, he himſelf may be affected, his concurrence in the deſign is likely to be merely paſſive, or ſo far only as to make him bear with complacency what the general order requires, rather than to call upon him for any active exertion directed to a purpoſe ſo far extended beyond his comprehenſion.

Even when we conſider the world of men and animals, how far extended beyond the reach of any active interpoſition of the individual for its general good, we muſt ſuppoſe that the character of goodneſs, applicable to man, in reſpect to this object alſo, conſiſts in pious reſignation to the will of God; or, at moſt in perfect good will to mankind, in every inſtance in which the active power of an individual can apply. Fortunately for him, when he acts in particular inſtances, for his friend, his neighbour, his country, or for any of the human race, there occurs, an occaſion to practiſe and to promote that mutual affection, fidelity, juſtice, and humanity, which in fact are a common bleſſing to mankind; inſomuch, that for him to adopt and to communicate the effect of theſe characters, is to act for the good of his fellow-creatures; and, ſo far he becomes an able and a willingn iſtrument in the hand of God for the beneficent ends of his providence.

The merit of this character, however, is more a ſubject of conſcioufneſs, or intuitive judgement, than of diſcuſſion or reaſoning; and they who are, in common life, moſt decided in their choice of good actions, proceed upon the ground of their affections and ſentiments, more than upon any information derived by inveſtigation or reſearch. In attempts at ſcience, however, we muſt deſcend to particulars, and endeavour to collect, by induction from the

phenomena of that nature we are confidering, what may be its deftination, and what the ftandard by which its worth is to be eftimated.

Among fubjects organized, we have already obferved that man is diftinguifhed as living and active; among the living and active, he is diftinguifhed as intelligent; or endowed with powers of difcernment, apprifed of the diftinction of good and evil, and invefted with freedom of choice. Among the gregarious animals, he is diftinguifhed as affociating and political, and confcious of his ftation as a member in the community of his fellow creatures. The order of nature itfelf is in a certain degree manifeft to him; he is fitted to hold communication with its Author, to apprehend his will, and to become a willing inftrument in promoting the ends of his government.

In ftriving to conceive the deftination of fuch a being, we may with great confidence reject the idea of its being limited to the prefervation of mere animal life, or even, as Epicurus affumed, to the poffeffion of mere pleafing thoughts or fenfations of any fort. There is an active character to be fuftained, and a part to be filled up; firft, in the community of men, who are partners in the joint caufe of humanity and juftice. There is a world of ftill and living nature, in the midft of which this active being muft acquit himfelf, with fenfibility in refpect to fome, and with circumfpection and care refpecting the whole. There is a commanding order of things, to which he muft accommodate himfelf, which he is required to ftudy, and concerned to know; and to which, even where it exceeds his comprehenfion, he muft with fubmiffion furrender his will.

To fill up fuch a part are required *fkill*, *difcernment*, or knowledge, *fit difpofition*, *application*, and *force*: Hence the four cardinal

dinal virtues, celebrated in the ſchools of philoſophy, *Wiſdom*, *Juſtice*, *Temperance*, and *Fortitude*.

Wiſdom is the virtue of intelligence, or a juſt diſcernment of the conſiderations on which we are to rely for happineſs, and the undiſturbed poſſeſſion of the faculties which are given for the government of life. Man, in his character of intelligent being, is active in a form, and to an extent, greatly ſuperior to any of the other animals. Every quality of his nature is an energy, not a quieſcent mode of exiſtence; and, whatever be the limits within which he is deſtined to exert his faculties, within the ſame limits, and in the ſame form of active exertion, are to be found his excellencies and defects, his enjoyments and ſufferings.

The lot of man is not, like that of the other animals, at once completely furniſhed by nature; he is inveſted with powers, and left to employ them for his own advantage, or that of his fellow-creatures. He merits the praiſe of wiſdom, or he incurs the imputation of folly, according to the uſe which he makes of his intelligent faculties; and in this, perhaps, gives the firſt and moſt ſtriking ſpecimen of the excellence or defect, of which he is ſuſceptible. His powers of conception, when well employed, lay the foundations of wiſdom; when miſapplied or neglected, lay the foundations of folly; and ſo far preſent him to his fellow-creatures, as an object either of eſteem and reſpect, or of contempt and deriſion.

With the exception of a few determinate inſtincts, ſuch as direct him on particular occaſions to the means of ſelf preſervation, or ſuch as connect the individual with his kind, man, we have obſerved, is left to follow the dictates of his own obſervation, diſcernment and experience.

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experience. In nonage or infancy, indeed, he is committed to the discretion of his parent; but, in the more advanced periods of life, he is committed to his own. His inſtincts and appetites are ſeldom to him, as they are to the other animals, determinate guides in the application of means to the attainment of his end, or ſeldom ſecure him in the proper choice and meaſure of his gratifications. When urged by hunger, though in the midſt of plenty, if the fruit or ſpecies of food preſented to him be new or untried, he muſt proceed with caution in the uſe of it, and examine well, before he ventures to taſte; much more before he ventures to feed on viands unknown, though of the faireſt appearance.

Although his gratifications, like thoſe of the other animals, when the purpoſe of nature is ſerved, frequently determine or pall on the ſenſe; and ſatiety, even in his caſe, might be ſufficient to guard him againſt exceſs; yet he is, by an error of his imagination, frequently led to exceed even theſe limits, and to ſeek for pleaſure, where it is not any longer to be found, in the object of a ſatiated appetite. In him, therefore, the defects of inſtinct muſt be ſupplied by reflection; and, he is to be taught, by experience and obſervation alone, to diſtinguiſh the real ſources of permanent happineſs.

As to man, therefore, the errors of his own imagination, as well as the defects of his inſtinct, are occaſions of evil, they are to be ſupplied or corrected by the proper uſe of his intelligent powers. And it may be aſked, Are we to conſider the intelligence of man as a mere ſubſtitute for the correctneſs of choice to which the other animals are formed by nature, and to eſtimate its value, by its apparent deſtination to do for him what inſtinct, and the want of imagination, have done for the brutes? This were to ſuppoſe him deſtined to attain,

tain, by a tedious and uncertain proceſs, that of which other animals are at once poſſeſſed by the ſuggeſtion of a ſpecific propenſity The bee, without any other direction than this, conſtructs his cell upon a model which the moſt perfect ſcience of mechaniſm cannot improve; and poſſeſſes that ſkill, from the firſt, which in the human ſpecies, many ages and ſucceſſive trials are required to obtain.

Animals, in general, whatever be their diſtination, are enabled to fulfil it at once. They acquieſce in their ſtate, or enjoy its advantages, without any ſenſe of its wants or defects. Man, at his outſet, being worſe provided than any other animal, is accordingly not diſpoſed to acquieſce in his primary ſtate. The wants or defects of his firſt condition ſeem, in the exerciſe of his faculties, to preſs him with all the force of neceſſity; but, after his firſt wants or defects are ſupplied, fancy ſucceeds to neceſſity; and, whatever ſupply he may have gained, or accommodation provided for himſelf, he is ſtill urged with a deſire of ſomewhat beyond the preſent attainment, and is as little diſpoſed to acquieſce in the higheſt, as in the loweſt ſtate of his animal accommodation. The ſpur of impatience to better himſelf, which, in his rudeſt condition appears neceſſary to his preſervation, continued on to his ſtate of higheſt attainment, ſeems to form in him a principle of progreſſion, of indefinite or endleſs extent. He is made intelligent, not merely that he may be able to procure a ſupply to his animal wants, but his animal wants appear to be multiplied, and his fancy rendered inſatiable, that he may find an early ſcope for the exerciſe of his intellectual powers, and, by the indefinite purſuit of their ends, make that progreſs in knowledge, which conſtitutes ſo eſſential a part in the excellence or perfection, of which his mind is ſuſceptible.

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We may thus collect the ſpecific excellence of any nature, from its capacity, and from the direction of its progreſs ; and that of man, in particular, from his capacity of receiving information, of improving in diſcernment and penetration, and from the progreſs he is qualified to make in theſe particulars. In him, the mere continuance of life is a courſe of obſervation, and repeated occaſion, on which to exerciſe thoſe faculties of the mind, which improve in being employed.

Man becomes powerful in the ſyſtem of nature, in proportion as he becomes knowing or wiſe: And the ſpecies, in this particular, ſeems well appriſed of the ſtandard by which to aſcertain its own merits or defects. Signal ability and underſtanding are admired, comparative incapacity, and dulneſs are deſpiſed. And there is, therefore, in reſpect to him no difficulty in collecting the grounds of eſteem or contempt, whether we conſider *a priori* what is ſuited to his deſtination, or attend to the reception which his qualities meet with in the eſtimation of his kind.

Philoſophers have thought, that every ſubject of commendation, to which human nature is competent; every virtue and every conſtituent of happineſs, might be compriſed under the title of *wiſdom*, or the excellence of intelligent being ; that, on the contrary every ſubject of diſpraiſe or contempt, every vice and every character of miſery, might be compriſed under the title of *folly*: But, it is not neceſſary, nor perhaps even expedient, thus to force the attributes of human nature, under ſingle appellations, however comprehenſive or general. Although it is both wiſe and profitable to love our fellow creatures, we can no more become affectionate to our friend, in the mere ſearch of wiſdom, than we can in ſearch of our intereſt. Our conſtitution

muſt have the ingredient of benevolence, in order that a mind well informed may improve upon this principle of nature, and learn to direct it aright.

" There are good qualities," ſays the Duke de la Rochefoucault, " which degenerate into faults when they are natural, and " others which are never perfect when they are acquired. It is " neceſſary, for inſtance, that we ſhould become by reflection " ſparing of our money and of our confidence; on the contrary, " we ſhould by nature be furniſhed with benevolence and va-" lour." The underſtanding at the outſet has its perfection to acquire; the heart is good by the inſpiration of nature.

But, in whatever terms we propoſe to expreſs the ſtandard of eſtimation relative to man whether *wiſdom*, *virtue*, or *goodneſs of heart*, there are various conditions required to the performance of his part, and which muſt occur in every ſtatement of qualities, that conſtitute the ſpecific excellence or perfection of his nature. He is formed for ſociety, and is excellent in the degree in which he poſſeſſes the qualifications of an aſſociate and a friend. He is excellent, in the degree in which he loves his fellow creatures; he is defective, in the degree in which he hates them, or is indifferent to their welfare. Benevolence, therefore, is a principal excellence of human nature; and malice an article of extreme vileneſs or defect. Theſe are the great ſources of merit and demerit; of juſtice and beneficence, on the one hand; of wrong, iniquity, and cruelty, on the other; a diſtinction, to the reality of which mankind in all ages have borne the ſtrongeſt teſtimony: To which, on the one hand, they have paid the higheſt tribute of eſteem and of love; and, on which, on the other, they have poured forth the higheſt meaſures of contempt and deteſtation.

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With respect to *Temperance*, it is a beautiful part, we may again observe, in the œconomy of animal life, that things pernicious are painful, and things salutary are pleasant; that even things salutary and pleasant, in the proper use of them become painful, in the abuse, or when carried to excess. Under this constitution of nature, the mere animals are safely directed through life; but man's animal frame is either originally less perfect in this respect, or is disturbed by the operations of a fancy, which lead him to look for enjoyments beyond the foundations which nature has laid.

By nature, the gratifications of appetite are occasional, and do not occupy any improper portion of time; but the voluptuary conceives them as a source of continued enjoyment: And sensuality is a distemper of the imagination, not a disorder in the ballance which nature has established between the animal and the rational part of man's constitution. The voluptuary does not enjoy more than the abstemious; but he employs more of his time in vain attempts to restore a satiated appetite, and to render that continual, which nature has ordained to be occasional and temporary.

As great inequalities of character and estimation result from the different degrees in which men avoid the habits of debauchery on the one hand, or gain the habits of a just application to the better pursuits of a rational nature, on the other; there is, in this particular, much room for wisdom, and much danger from folly. In this, as in many other instances, man is destined by nature to govern himself, or to make the best of materials which become pernicious, if he abuse or neglect them; and which, to secure the proper use of them, require his utmost attention and care.

This virtue, among the active qualifications of man, may be referred to the title of application; for the purſuit, which the temperate withholds from the mere objects of animal gratification may be applied to the better and more worthy objects of human life. Senſuality, indeed, for the moſt part, is ſelfiſh and more ſolicitous about the gratifications of appetite, than about the concerns of other men; and temperance being an exemption, at leaſt from this principle of ſelfiſhneſs, lays open the mind of man to thoſe incitements of benevolence and candour, from which the diſintereſted are prepared to act. Temperance, therefore, in this point of view alſo, may be reckoned among the primary excellencies of human nature; intemperance or ſenſuality may be reckoned among its moſt real defects.

With reſpect to *Fortitude*, the fourth in the enumeration of cardinal virtues, we may obſerve that, in every active nature, beſides the diſpoſition, the application, and the meaſure of ſkill, in reſpect to which ſuch natures may be unequally eſtimated, there is a meaſure of force alſo required to ſupport their active exertions, and a meaſure of weakneſs ſufficient to fruſtrate the purpoſe of nature, or to betray the confidence that may be placed in the higheſt meaſures of ſkill and of good diſpoſition.

Force of mind has a peculiar reference to the ſtate of man, to the difficulties, hardſhips, and dangers, in the midſt of which he is deſtined to act. In the ſupport of what is honourable and juſt, he has ſometimes occaſion to ſuffer what is inconvenient or painful to his animal frame. In eſpouſing the cauſe of the juſt, he may incur the animoſity and oppoſition of the wicked.

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In performing the offices of beneficence to others, he may encounter with hardſhip or danger to himſelf.

But this circumſtance, which ſeems to reſtrain or limit his activity, ſerves rather to whet his ſpirit, and increaſe his ardour in the performance of worthy actions. The difficulty he ſurmounts becomes an evidence of the diſpoſition which he approves, and actually endears the object for whoſe ſake he expoſes himſelf. Hence it is, that ingenuous minds are confirmed in the love of virtue, in proportion as it becomes a principle of elevation, of heroiſm, or magnanimity. Theſe, it is ſcarcely neceſſary to obſerve, are primary topics of praiſe, and principal excellencies of human nature, while puſilanimity and cowardice are amongſt the loweſt ſubjects of contempt.

From theſe particulars, then, we may collect that the excellence of a man includes the following particulars: *Wiſdom*, or ſkill to chuſe, and to accompliſh what he ought to attempt; a *benevolent affection*, which wiſdom is fitted to direct; an *application of mind*, which inferior conſiderations cannot divert from its purpoſe; and a *force*, which oppoſition, difficulty, or danger, cannot diſmay. And, as the excellent man is wiſe, beneficent, courageous, and temperate; the defective, on the contrary, is fooliſh, malicious, cowardly, and ſenſual. The wiſe chuſe, among their ends, what is beſt; among the means they employ, what is moſt effectual. The benevolent are committed to their beſt affections; the courageous are exempted from the ſuffering and the weakneſs of fear; the temperate reſerve their faculties, and their time, for the beſt and wortheſt occupations of their nature; and, if from this ſtatement of the excellence to which human nature is competent, we look back to what has been already obſerved on the ſubject of pleaſure

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and pain, we ſhall have reaſon to conclude, that the Author of nature has not only made that moſt agreeable which is moſt ſalutary; but that more eſpecially conſtituent of happineſs, which, in the eſtimate of human qualities, is alſo moſt excellent, or moſt highly eſteemed.

To be conſcious of excellence, from the very nature of approbation and eſteem, is a ſtate of enjoyment; and, to be conſcious of vileneſs or defect, a ſtate of ſuffering: Or, if theſe ſentiments could be ſuppreſſed, ſtill, the conſtituents of man's ſpecific excellence, *Wiſdom*, *Juſtice*, *Temperance*, and *Fortitude*, apart from any reflections they may bring, are in themſelves, either an exemption from pain, or an acceſſion of pleaſure. And providence ſeems to intend, that this diſtinction, which is the ſource of elevation, integrity, and goodneſs, in the mind of man, ſhould be the guide, by which he is moſt ſecurely led to the higheſt enjoyments, to which his nature is competent. The excellence and beauty he admires may become an attribute of his own mind; and, whether in reflection or action, conſtitute the moſt agreeable ſtate of his nature.

If we thus figure to ourſelves an active intelligent being in the beſt ſtate of which he is ſuſceptible; this, in reſpect to him is to be virtuous. Or, if we ſhould be diſpoſed to conſider even the excellent mind, in reſpect to its external relations and effects rather than in reſpect to its own conſtitution, we may obſerve, that the wiſe, the courageous, the temperate, and the benevolent, are of all others moſt likely to ſtand well-affected to their fellow-creatures, to the univerſe, and to the Creator of the world; that none are ſo likely to recognize the providence and moral government of God, or to ſettle religion itſelf on its beſt foundations of inte-

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grity and goodneſs. But before we proceed to ſtate the concluſion of this argument, in any general expreſſion of the ſupreme good to which human nature is competent, it is proper to take into our account alſo, what may occur on the ſubject of proſperity, or of thoſe external advantages in which the gifts of fortune conſiſt.

SECTION

SECTION V.

Of Profperity and Adverfity, or the Gifts and Privations of Fortune.

TO this title may be referred *health*, *ftrength*, *birth*, *riches*, and whatever elfe may be fuppofed to conftitute the difference of fituation or rank in fociety. The poffeffion of them is coveted, and the privation is fhunned, for reafons peculiar to each.

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Health is to the animal frame, what wifdom and goodnefs are to the intellectual nature of man, its found and perfect ftate. *Strength* is alfo the meafure of animal power, in furmounting difficulties, and performing the labours that require it. *Birth* conftitutes rank, apart from any confideration of fortune or perfonal qualities. *Riches* confift in the ftore which is provided for the fupply of animal wants, accommodation, or ornament.

The reafons for which thefe advantages are feverally coveted are extremely obvious. Health is an exemption from the fufferings incident to difeafe; and it is a fitnefs of the living frame for

for all its active exertions. It enhances the value of life, as implying all the principles of life in their ſtate of greateſt advantage. This bleſſing, however poſitive as it may appear to be, is moſt ſenſibly felt in the privation of it. Ill health and diſeaſe greatly increaſe the difficulties which patience and fortitude have to encounter, and tend to weaken or diſqualify the mind for the practice of theſe virtues.

Strength of body is in ſome meaſure an appurtenance of health. It is unequal in the make of different perſons; but is moſt entire in any given conſtitution, in the moſt proſperous ſtate of the animal functions. So far as the conſtituents of wealth are neceſſary to the preſervation of animal life, their value is evidently commenſurate to that of life itſelf: But it is difficult to draw the line of ſeparation betwixt convenience and abſolute neceſſity, or between articles of convenience and thoſe of mere decorum and fancy. There is a gratification propoſed in the uſe of all or any of them ſeparately, which gives riſe to a haſty preſumption that men are happy in proportion as they have accummulated the means of ſuch gratifications. The rich can purchaſe the ſervices of the poor, obtain their attendance and reſpect; and by theſe circumſtances ſeem to rank in a ſuperior ſtation. Birth is attended with ſimilar advantages; and, although it may have originated in the riches, as well as ſome heroic diſtinction of anceſtors, at ſome diſtant period, is nevertheleſs by a wonderful caprice in the imaginations of men, reckoned the more illuſtrious the farther back that its ſource, or the original merit from which it is derived is retired from the ſight.

The poſſeſſion or privation of theſe advantages depend upon circumſtances which mankind cannot command, nor even enu-

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merate: They are therefore, independent of the human will. They form the occaſions on which a perſon may adopt a proper or improper conduct; and for this he is accountable, although he is no ways accountable for the event that may follow from his beſt endeavours. Happily for mankind, in this diſtribution of their truſt, it is obſerved, even to a proverb, that they are happy or miſerable, not in proportion to the meaſure in which they poſſeſs or are deprived of external advantages, but in proportion to the temper of their own minds, the conduct which they themſelves have adopted, and the uſe which they make of the means with which they are furniſhed by providence.

To the perſon who abuſes his *health*, it is no advantage; becauſe he has taken occaſion from it to give ſcope to his folly or his vice. And if it has encouraged or ſupported him in the practice of either, although to another it might be the occaſion of good, to him it is at leaſt the occaſion of evil. To preſerve, under the diſadvantage of ill health, equanimity and a temper undiſturbed; to ſubmit with chearfulneſs to the reſtraints which diſeaſe may impoſe, ſerves to diſarm this enemy, or render his preſence an occaſion of good to the perſon who can thus acquit himſelf properly.

The effects of diſeaſe in different perſons are no doubt unequal; and in ſome inſtances, whether owing to comparative weakneſs of mind, or intenſity of ſuffering, it is no doubt ſufficient to deprive animal life of its value: But this is rarely the lot or condition of man; nor is it that, againſt which a perſon, who would avoid the evils of human life, is moſt concerned to be on his guard. "You "are afraid of ſickneſs, poverty, and death," ſays Epictetus; "but, "if you had been afraid of fear itſelf, you would have ſhewn "yourſelf better appriſed of your real enemy." Diſeaſe of the

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mind is more to be dreaded than that of the body: For one that is afflicted with a gangrene of the flesh, thousands incur the gangrene of envy and malice, or are bloated with vanity and folly.

Bodily *strength*, as well as health may be abused; and, to those who consider it as an article of vanity, is for the most part an occasion of brutality and extreme folly. Joined to strength of mind, it may qualify the hero to act his part in the field, or in scenes of violence: But strength of mind without it can find many substitutes; and the heroic part may be acted as well on the sick man's litter as on the warrior's horse.

Riches, it cannot be doubted, derive their value from the use to which they may be employed, in preserving, accommodating, or adorning the state of man, in profit to ourselves or beneficence to others. With riches, as well as birth, there is an association of personal excellence, tending to constitute a superiority of estimation or rank; and, with poverty, there is an association of comparative defect or meanness. The first accordingly is from a desire of preferment ardently coveted; the other, under a notion of degradation, is carefully shunned.

Among rude nations, although property be acknowledged and unequally distributed, its principal use being to secure the necessaries of life, and this use being obtained, without being rich, it is difficult to perceive in what consists the advantage of wealth. "A Hottentot," says Sparman, "is rich, in proportion to the number "of his cattle: But the richest is cloathed, fed, and attended, no better than the poor; more trinkets of brass, of shells, or beads; more fat "in dressing his victuals, or in anointing his body: The honour

"or

" or advantage of being able to maintain more ſervants and cow-
" herds. And the divine pleaſure of doing good to his fellow
" creatures, is that which conſtitutes the diſtinction of rank
" in this ſimple race of men."

In the competitions of vanity, riches are more an object of oſtentation than of enjoyment or uſe; but, in the breaſt of the miſer, they are aſſociated with ſafety more than with either of the former conſiderations. Perſons of this deſcription, we are told, even in the midſt of plenty, are haunted with the fear of want, whilſt they hoard up riches, they refrain from the uſe of them; and, inſtead of affecting the rank which their wealth might beſtow, ſtill cling to their ſuppoſed pledge of ſecurity, under the aſpect of meanneſs and poverty. Enjoyment, however, is the charm with which riches are ſuppoſed to attract the wiſhes of ordinary men. It is the ſpur, under which mankind have ſtriven to improve and to extend all the arts which tend to the accumulation of wealth. It is that which cauſeth the poor to look up to the rich with ſentiments of admiration or envy, and cauſeth the rich to look down on the poor with contempt or pity.

But with reſpect to *enjoyment*, there is good reaſon to believe, that habit reconciles mankind, or renders them indifferent nearly alike to their reſpective fortunes. It is not doubted, that the meal of the peaſant is equally reliſhed with that of his lord; that ſleep on a ſtraw matraſs is no leſs undiſturbed than on a bed of down, or under a canopy of ſtate: Inſomuch that contentment, or the want of it, indifferent conditions of life, are even to a proverb obſerved to be equal. If the poor be haunted with wiſhes for ſomewhat beyond his preſent condition, ſo alſo is the rich; and it is probable that the comforts of either

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PART II CHAP. I. SECT. V. would be more felt in the privation than in the actual ufe. The ordinary courfe of life appears indifferent: They are pleafed chiefly with acceffions that feem to exceed, or difpleafed with privations that impair the advantages to which they are accuftomed.

Occafional privations, at the fame time, even of what are thought the effential comforts of life, are endured with alacrity and cheerfulnefs in the midft of any ardent purfuit, whether of bufinefs or fport. The foldier is chearful in the midft of hardfhip or toil, or in the face of danger, encountered in difcharging the honourable duties of his ftation. The huntfman incurs almoft equal danger with equal alacrity; and, whatever his hardfhips may be, has not any pretence for complaint, becaufe they are voluntary. Compared to either, the ordinary life of a beggar, which is ever looked on with contempt or pity, is eafy, affluent, and fecure.

The enjoyments or fufferings, which we commonly afcribe to riches or poverty, are in reality, in a great meafure, derived from the unequal degrees of confideration or efteem with which they are attended. The foldier and the gentleman hunter either gain, or do not lofe in point of rank, by the hardfhips or privations of eafe to which they fubmit. The one is actually raifed in his own, and in the efteem of others, by the danger he braves. The other too is no way degraded, or rather maintains his ftation by his contempt of repofe, and by his parade of horfes and dogs, which makes a part of the diftinction he enjoys among his neighbours.

Nothing is better eftablifhed in reafon, than that the value of external circumftances depends on the degree in which they are

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felt. Profperity is of no value, to thofe who feel it not; or to whom it only minifters an occafion of peevifhnefs and difcontent. Adverfity is no evil to thofe, who fuffer nothing from it; or who are contented and chearful, in the midft of fuppofed diftrefs. And, if there were no other reafon to deny the certainty of any effect from external circumftances, the unfettled opinions of men, refpecting the happinefs of different fituations, are fufficient to fhew that experience does not warrant our fuppofition of happinefs or mifery, attached to any particular meafures of fortune. Some conceive happinefs to be the lot of thofe, who are placed in the higher ranks of life; others believe it to be the portion of thofe who remain in the lower ranks; and many believe, that both are miftaken,—that it belongs to the middle ftation, equally remote from the exceffes of luxury, or the preffure of want. In the mean time, wherever folly, malice, cowardice, and debauchery are found, there is fuffering and mifery to be found alfo. Thefe are not the neceffary appurtenances of any fituation, whether middling, high, or low; nor is any fituation fecurely exempt from them. The oppofite virtues of wifdom, goodnefs, temperance, and fortitude, are equally a bleffing in every fituation, wherever they are found; whether on the throne of Aurelius, in the fervitude of Epictetus, or any intermediate ftation: And, as there is fcarcely a fituation to be found, in which the four and malignant do not complain; no more is there a fituation in which the good humoured and chearful are not content.

From thefe and other appearances, it fhould feem, that although providence has deftined human life to pafs away in the practice of arts; in tranfactions and purfuits, which relate to the gifts of fortune, as to their immediate object; that neverthelefs there is not any precife meafure of thefe gifts required, to enable

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the poſſeſſor to paſs his time agreeably. To be reaſonably and properly occupied about them is enough: but this occupation may take place in any ſtate of their diſtribution; and, although it ſeems to be the inſtitution of nature, relating to mankind, that their active exertions ſhould originate from the want of a ſupply to their animal neceſſities; yet is it provided, alſo, that their felicity ſhould be a quality of their own affections and actions, not of the ſupply they have obtained; that it ſhould not depend on events, or on circumſtances in which the conditions of men are ſo unequal, and ſo little at their own command.

In conſidering man's place and diſtinction in the ſyſtem of nature, we have had occaſion to obſerve; that, being diſpoſed to enjoy his own active exertions, and to improve by the exerciſe of his faculties, many apparent comparative defects of his animal frame, and the wants to which he is ſubjected, have a ſignal propriety in his lot. To him, difficulty, delay, and danger, are the occaſions of ingenuity, perſeverance, and courage. He is maſter of his own actions; but the circumſtances, in which he is to act, are wiſely withheld from his diſpoſal. For it being the nature of an active diſpoſition to preſs towards every advantage; and to haſten the removal of every obſtruction, and of every inconvenience; if this could be done by a wiſh, there would not any longer be an occaſion for active exertions: And if, on the contrary, the laws of nature were inſcrutable, and events no way affected by any means in the power of man to employ, there would be nothing for him to ſtudy and nothing to be done.

The ſcene of nature, indeed, is in both theſe reſpects well ſuited to man. The powers that operate connot be controuled by his will; but the laws, according to which they proceed, may be known, and meaſures taken to influence the reſult of their operations.

tions. He is encouraged to ply his induſtry and his ſkill; and his work is not accompliſhed in ſingle efforts. Upon a diſappointment, he muſt renew his endeavours; and, even when moſt ſucceſsful, repeat or follow them up with ſomewhat farther in the line of his purſuits. The mixed ſcene of diſappointment and ſucceſs ever preſents him with a ſpur to his exertion, with admonitions to care, and incitements to induſtry, with encouragements to hope or apprehenſions of failure; and, furniſhes him with occaſions, and with the materials of beneficence to others, as well as of profit to himſelf.

It is particularly happy, in reſpect to this inſtitution of his nature, that the conduct, tranſaction, and intercourſe, in which the materials of art engage mankind, are agreeable to their active diſpoſition, while the meaſure in which theſe materials accrue to any one, is in ſome meaſure indifferent. All the beſt or the worſt affections or paſſions of the human mind, are to be found indifferently wherever mankind are placed. As the active ſcenes of life may be ſupported by the healthful and vigorous, the virtues of equanimity, patience, and fortitude, may be practiſed by thoſe who labour under all the infirmities of diſeaſe or a ſickly conſtitution. As candour and humanity may be practiſed by the powerful, towards thoſe who depend on them; ſo may the correſponding virtues of reſpect and good will be practiſed by the dependent towards their ſuperiors. Although the gifts of fortune are to thoſe who poſſeſs them materials of beneficence, yet they are not the ſole materials, nor is this uſe of them limited to any meaſure or degree of the poſſeſſion. The poor man who kindly ſhews the benighted traveller on his way, may have done an office of more real moment, than fortune may have given the rich occaſion to perform in any circumſtance of his life. The

greateſt benefactors to mankind have been poor; and the greateſt benefits have been done by with-holding, not by laviſhing the communications of wealth. Socrates and Epaminondas, even in times when poverty was frequent, were diſtinguiſhed among their fellow citizens, by this diſadvantage: But the one, by his ſuperior abilities, not only ſaved his country from a foreign yoke, but raiſed it to a pitch of glory, which filled the mind of its citizens with ſentiments of elevation and of honour. From the other originate the purſuits of moral wiſdom, in which all the nations who ſpoke the language of his country became ſo eminent; and to him, perhaps, we owe that we are now employed, not in gratifying a mere curioſity, in matters over which we have not any controul; but in ſtudying the powers of our own nature, the province in which they ought to be exerted.

It was by with-holding, not by an eaſy payment of a trifling tax, that Hampden laid the foundations of that political freedom which his country now enjoys: And we may conclude, from the whole of theſe obſervations on the gifts of fortune, that they are valuable only in the uſe which is made of them; and that the proper uſe is equally valuable in whatever meaſure thoſe gifts are beſtowed or with-held. Providence, in our apprehenſion has indefinitely varied the ſituations of men: But to an obſerver, who can penetrate through the firſt appearance of things, there is a condition common to all mankind; that is, a fit ſcene in which they are to act, and a felicity to be obtained by proper action.

SECT VI.

Of Happineſs and Miſery.

IN the variety of denominations which we have been conſidering, whether *pleaſure*, *virtue*, or *proſperity*, the object of thoſe who employ theſe terms, is to mark, in particular inſtances, the object of choice; or, in the greateſt poſſible meaſure of all theſe particulars united together, to expreſs what they conceive to be happineſs. PART. II. CHAP. I. SECT. VI.

If we have underſtood the terms aright, and fairly eſtimated what is beſt, in the different denominations of good, and what is worſt, or moſt to be dreaded, under the different denominations of evil, the concluſion of reaſon, as formed in the conſideration of any article apart, will be the ſame throughout: That the preferable pleaſure, as well as the higheſt merit, is found in the courſe of a virtuous life; and the pain moſt to be dreaded, or the ſpecific defect or debaſement of human nature, conſiſts in folly, malice, or cowardice. The gifts of fortune have their uſe in

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being the means of life and the inftruments of virtue, or in furnifhing a fcene for the exercife of good fenfe and beneficence; but they are fo far from being an occafion of good to thofe who abufe them, that this abufe contaminates every other fource of enjoyment, difappoints the mind of its better and higher qualifications, impairs its faculties, and multiplies its fufferings and its defects.

The only queftion that remains therefore is, under what title we are to felect this fupreme or principal good, which is the genuine ftandard of eftimation to mankind, whether under the title of *pleafure*, the *proper ufes of fortune*, or *virtue*.

The general term, *Pleafure*, includes many particulars of unequal value, and in common language is employed frequently to fignify fenfuality and diffipation in contradiftinction to bufinefs or any ferious application of the mind. It behoves us, therefore, to fpecify our pleafure, before we refer to it as the object of choice. And when we have done fo, the particular we have felected, not pleafure at large, is the proper ftandard of eftimation.

Happinefs has its feat in the temper, or is an agreeable ftate of the mind; and cannot always be confidered as a proper ufe of external advantages; for it does not always proceed to the production of any external effect. As virtue is the preferable pleafure, fo is it alfo the proper ufe of the fortune or fituation in which we are placed. It is beft, then, that we fix our attention immediately on the real good qualities of our own nature, and the virtuous life they fupport, as the conftituents of happinefs; and that we confider the debafements of folly, malice, cowardice, intemperance, and a vicious life, as the conftituents of mifery.

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Whether theſe be the ſole conſtituents of happineſs or miſery, we need not be anxious to enquire; for the choice on every occaſion will be the ſame, whether we conſider them as the ſole or the principal ſpecies of good and of evil.

It is of little moment to be told of a good, which we cannot command, or of an evil which we cannot avoid. Our object in every caſe, is to make ſuch a choice of the things which are in our power, that is, of our own conduct and actions, as to do the beſt which the caſe can admit for ourſelves or our fellow creatures.

Every circumſtance, in the lot of man, evinces the caſe of a being deſtined to bear an active part in the living ſyſtem, to which he belongs. His very ſubſiſtence requires ſuch a part. To obtain it, he muſt ſtudy the laws of nature, invent and practiſe a variety of arts. He is born in the ſociety of his parents; and, for a conſiderable period of his life, owes, not only his well-being, but his preſervation alſo, to their unwearied and anxious care. So ſoon as he is fit to act for himſelf, he is urged, by the moſt ardent and irreſiſtible paſſions, to become the parent of a family in his turn; a condition in which affections are experienced, more powerful than intereſt or ſelf-preſervation. The company of his fellow creatures is ever required to his ſatisfaction or paſtime. He may be unſociable, but is not ſolitary; even to behave ill, he muſt be in ſociety; and if he do not act from benevolence, he will act from intereſt to over-reach, or from ambition to command his fellow creatures, or from vanity to be admired, even by thoſe whom he neither eſteems nor loves. To ſuch a being, it were vain to preſcribe retirement from the cares

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of human life. If he is not engaged as a friend, he will be baited as an enemy; and, if his mind have not the confiderations of juftice, humanity, and public good, to occupy him, it will fink into a degree of brutality or languor, the reverfe of that tranquillity of mind, and of thofe agreeable thoughts, and emotions which Epicurus propofed to cultivate, in a ftate of feclufion from the concerns of fociety, whether private or public.

Nature has made the fubfiftence, the fafety, and accommodation, of human life to depend upon certain external circumftances and poffeffions, to which men, accordingly, with good reafon, direct their attention. They are the objects of art and induftry, and furnifh the occafion of invention, and other trials of genius to the mind of man, which is ever bufy, and which is at once gratified and improved, by its active exertions.

Many of its efforts are employed in guarding or in accumulating external poffeffions. The event, or the meafure of fuccefs, we have obferved, is precarious; and, on the whole, independent of this circumftance, mankind exhibit very unequal degrees of happinefs or mifery. They are happy in applying to their object with proper meafures of wifdom, diligence, benignity and fortitude. They are miferable in folly, flothfulnefs, malice, intemperance, or cowardice; but in the different meafures in which they attain to the gifts of fortune have equal opportunities for either. It is by the part which he acts, or has acted, that a perfon is happy or miferable, not by the event of his purfuit, or by the meafure of external advantage he has gained: for we muft forever repeat, that, under very great inequalities in refpect to thefe advantages, there are equal examples of enjoyment or of fuffering.

It is happy therefore to fullfil the deſtination of nature; to ply the induſtry, the invention, the ſtudy which ſhe has made neceſſary to our wellbeing; to embrace the objects of that ſocial affection with which ſhe has inſpired our minds; and to conſider, that as our ſtate of greateſt proſperity, in which we are moſt effectually employed with benignity towards our fellow creatures, and ſubmiſſion to the will of God, in whatever he has aſſigned for our lot.

The happy, under every event, whether of ſucceſs or diſappointment, proceed with alacrity in the diſcharge of ſuch offices, and in the purſuit of ſuch objects as the occaſion ſuggeſts. The miſerable, in proſperity, ſwell into inſolence; or, upon a reverſe of fortune, ſink into deſpair, and neglect the good which is in their power, becauſe there is another ſuppoſed good which they cannot command.

What is the leſſon of reaſon then to the poor man, who complains of his lot, or rather who enquires what, in the ſituation which providence has aſſigned to him, is required to be happy? He may be told, "Providence has given to you, and to all other "men, a ſet of wants; and it is the will of providence that you "proceed to ſupply them: Be diligent, induſtrious, and frugal: "Do whatever the preſent moment requires with benignity and "fortitude. Theſe are the conſtituents of happineſs, and not "leſs in your power than they are in the power of your richeſt "neighbour."

This temper of mind, however, under the ſhocks of adverſity to which men are ſubject in the ordinary puſuits of life, may be ſuppoſed to be of difficult attainment. It is, nevertheleſs, attain-

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ed by numbers, who, in their ordinary condition, poſſeſs the gifts of fortune in lower meaſures, than that to which many who ſink under ſtrokes of adverſity are actually reduced. At any rate, the perſon who does not poſſeſs the virtues which conſtitute happineſs, muſt not complain of their inefficacy; for they cannot be ſuppoſed to have effect, where they do not exiſt.

It may not perhaps be aſked, what will make the rich man happy? for he is ſuppoſed to be ſufficiently happy in being rich. He muſt not be diſmiſſed, however, under this apprehenſion, untill his own ſenſe of the matter is taken. It is probable, that he will deny he is rich; that he will be found to have wants no leſs numerous than thoſe of his poorer neighbour. Under this aſpect of his ſtate, the leſſon of wiſdom to him is preciſely the ſame as to the former. Be diligent, induſtrious, and frugal, reſpecting the management of your own affairs: be candid, ingenuous and humane in your tranſactions with others. Fear not that the event will be ſuch as to deprive you of theſe bleſſings: They are the greateſt of which human nature is ſuſceptible; and providence has given a place for the enjoyment of them in the ſituation of the rich as well as in that of the poor.

If the rich man ſhould acknowledge that he has not any wants; but in this very circumſtance ſhould find a ſource of diſtreſs, which is not uncommon in the caſe of thoſe who, as they are pleaſed to expreſs it, have nothing to do: the miſery of ſuch perſons, they may be told, is not an exceſs of riches, but a defect of underſtanding, and a corruption of heart. The firſt attempts to correct ſuch folly are made in recourſe to multiplied amuſements and paſtimes; and we muſt, indeed, prefer any ſpecies of harmleſs diverſion to the devouring tooth of liſtleſs pride, peeviſhneſs, or melancholy. But it ſhould ſeem, that, to a perſon in this ſitu-

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ation, it might ſoon be made evident, that offices of benefit to mankind ſhould be a more effectual amuſement to himſelf, than any mere trifling paſtime, which is not attended with any effect whatever beyond the amuſement of the preſent hour.

If the ſick man ſhould complain of his lot, or deſire to know by what means he may eſcape from his ſufferings, he may be told to get well as ſoon as he can; and if this ſhould appear to be mockery; becauſe his grievance actually conſiſts in his not being able to get well; on this ſuppoſition, the beſt thing he can do, is manfully to bear what cannot be helped. Fortitude may not eradicate pain; but is ſurely the beſt and happieſt expedient to which the ſufferer can have recourſe in his ſtate; and may, in fact, to the ſtrenuous mind, conſtitute a greater bleſſing, than even that of being exempted from pain. In ſtriving to find an expreſſion or rule by which to diſtinguiſh the happy, we may venture to aſſume two general propoſitions.

I. The firſt is, That happineſs, whatever be its cauſe, is itſelf an attribute of the mind.

II. The ſecond is, That a perſon, when ſaid to be happy, can juſtify this aſſertion only in proportion as his enjoyments are habitual, laſting, and conceived to be ſecure.

The firſt of theſe propoſitions is too evident to need much illuſtration; and it is only by a figure of ſpeech, which in rhetoric is termed the abuſe of words that we ever ſeem to expreſs a contrary opinion. Happineſs is peculiar to ſentient beings; or is proper

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proper to mind, the great receptacle of enjoyment and ſuffering, as well as perfection and defect. When we ſay of an external ſituation, that it is a happy one, we mean to affirm only, that it is fit to produce happineſs in the mind that enjoys it; and thus, by a well known figure, put the ſuppoſed cauſe for the effect.

But in what concerns the mind of man, external cauſes have not any neceſſary effect. The moſt fortunate circumſtances which imagination can ſuggeſt do not produce any agreeable affection in the mind of the peeviſh or melancholy; and many circumſtances of apparent diſtreſs do not fret or diſcompoſe the contented and chearful.

Reaſon, then, ſeems to require, that we correct this abuſe of language; and reſerve the appellation of happineſs for mind, to which alone it is applicable, and in which it forms the diſtinction of goodneſs and worth.

In the mean time, it is not diſputed, that external circumſtances have their value, although they are not ſufficient to ſecure the happineſs of thoſe who are placed in them. They include the ordinary means of ſubſiſtence and ſelf-preſervation, and have therefore a value commenſurate to the value of life itſelf, which cannot be preſerved without them. But this value, great as it may ſeem, is ſtill undetermined, until the nature of that life which is preſerved ſhall be ſpecified. It may be happy, and it may be miſerable; and, although nature has wiſely given an inſtinctive deſire to preſerve it upon either ſuppoſition, and the object of inſtinct is life; yet the ſole object of reaſon is happineſs; and mere life, or the means that preſerve it, apart from this object is of a value yet ambiguous or uncertain.

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So far, there will not probably be any difference of opinion; but, if merely to live be no more than a capacity either of happineſs or of miſery, we ſhall be ready to enquire what are the additions which life may receive, that will render it happy on the one hand, or miſerable on the other?

To this queſtion, anſwers will be given as various as the conceptions or ruling paſſions of men. It is a maxim, that *Taſtes* are not to be conteſted; and, on the ſubject of happineſs, it is ſcarcely permitted for one man to preſcribe for another. To the vulgar, happineſs appears to be the portion of the young, the gay, and the proſperous. It ſhrinks from the touch of the laborious, the ſevere, and the thoughtful. It is the ſtate of a moment. The ſame perſon may be happy or unhappy, and paſs from one ſtate to the other as quick as the ſucceſſions of thought. The boy ſeeks it at play, and the man of buſineſs in ſome event, on which his hopes are ſuſpended.

To ſuch minds the event, while in expectation, gives a proſpect of happineſs; but, upon its arrival, generally diſappoints the hopes which it gave: And they are the happieſt amongſt ordinary men, who do not dwell upon ſuch diſappointments, but at the cloſe of any one purſuit, adopt ſome new one with equal alacrity.

Is man, therefore, doomed to reſt the happineſs of every preſent moment, on the proſpect of ſome future event, which upon trial is found to be illuſive? This, in fact, is the caſe with many of thoſe who have devoted themſelves to what they are pleaſed to call the ſerious concerns of human life, profit, preferments, or

ſame; and yet there are perſons who have no ſuch ſerious objects in view, who, without regard to the future, enjoy the exerciſes and occupations of the preſent hour. Such are the huntſman in his chace; companions in their converſation or play: in all of which the end or the ſtake is a trifle. But exerciſes of the mind or the body are highly agreeable, and "labour itſelf," in the words of the Rambler, "is its own reward."

To a mind conſcious of this law of its nature, the object, it may be thought, ſhould be to exert itſelf properly upon all occaſions; to propoſe reaſonable ends, but never to ſink under any event, nor even to incur any grievous diſappointment, ſo long as the mind finds occaſion to employ itſelf properly.

The exerciſes of good ſenſe and of wiſdom are, in their own nature, agreeable. They proceed upon a juſt diſcernment of objects, and do not give way to illuſive hopes or unmanly fears. As it is the excellence of a ſocial being to be the friend of thoſe with whom he aſſociates; ſo the love of mankind is to man, as ſuch, the principal ſource of enjoyment alſo.

Courage and fortitude, being the excellencies of an active nature deſtined to ply in the midſt of difficulties, dangers, and hardſhips, are, to the perſon who is endowed with them, not leſs a ſecurity for the poſſeſſion of all the faculties which nature has furniſhed for ſuch occaſions, than an exemption from fear; and an alleviation of the ſuffering which hardſhip or danger produces, in the timorous or deſponding mind.

It may be thought, perhaps, that exemption from difficulty or danger is preferable to reſolution or force of mind; and it

may

may be thought wifer to feek for places of fafety from which the caufes of fear being removed, there is not any occafion to exercife the virtues of intrepidity or courage.

The wife, no doubt, will avoid unneceffary occafions of fuffering or of danger ; but thefe, notwithftanding, are, by the appointment of providence, fometimes a part of his lot : And if the fearful could remove every real caufe of alarm from human life, where is the place of fecurity in which the coward will not figure to himfelf objects of fear and diftruft ? Where is the bed of rofes on which the Sybarite will not find the doubled leaf ? Or where are the circumftances of affluence and eafe to which the difcontented and the peevifh may not impute the fufferings of his own fretful temper ?

The virtuous are not deceived, when they avoid the excefs of an animal gratification, or reject fenfuality as their guide to enjoyment. It is well known, that temperance is eligible, as the proper œconomy even of animal pleafure ; and, the more that fuch pleafure is valued, the more we fhould value thofe habits of life, which preferve the animal organs in a proper ftate of enjoyment. But temperance is the œconomy of pleafure, ftill, in a higher fenfe than this : It is the œconomy of the wife ; who, knowing the higher purpofe of his nature, will not fubmit to beftow an improper part of his time or attention on objects of inferior confideration or value.

To the fecond propofition, then, we may fubjoin, as its application and its comment, That happinefs is conftituted in the mind, by the continued habits of wifdom, benevolence, fortitude, and temperance : And the reader may be addreffed, nearly in the

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ſame terms which the emperor Antoninus addreſſed to himſelf; "If you diſcharge your preſent duty with diligence, reſolution, "and benignity, without any bye views; if you adhere to this, "without any farther deſires or averſions; completely ſatisfied "in diſcharging your preſent offices, according to nature, and "in the heroic ſincerity of all your profeſſions, you will live hap-"pily. Now, your doing this none can hinder."

This account of happineſs does not preclude any reaſonable attention to the ordinary concerns of human life. Nay, requires ſuch attention, as part of the offices of a man, and in the performance of which his happineſs conſiſts. It precludes only ſo much dependance of mind on the events of fortune, as diſable it for the proper diſcharge or continuance of its office, with reſpect to theſe or any other object of reaſonable care.

It were unhappy to neglect any means that might tend to obtain the proper end you propoſe: but it is more unhappy to be ſo affected with any event whether adverſe or proſperous, as to become unfit to continue or repeat the exertions of a diligent and beneficent mind. Such exertions are the foundation on which you are to reſt for happineſs. Events you may endeavour to obtain or provide; but they may alſo happen contrary to your wiſhes; and your happineſs cannot conſiſt in events which you cannot bring about, although it may, and actually does, conſiſt in the temper you command and the part you act, through all the variety of events to which you are expoſed.

On this ſubject, *good ſenſe* need not charge itſelf with the paradox, which, we are told, was mantained by oſtentatious zealots, whether of the Epicurean or the Stoic ſchool, that all external

ſituations are equal; and, that the perfect man would be equally happy in the bull of Phalaris, as on a bed of roſes.

Fortitude, of a very inferior meaſure to this, is ſurely a valuable quality; but, in whatever meaſure or degree a wiſe man poſſeſs it, he will not, without neceſſity, or ſome adequate inducement, run himſelf into ſufferings of any ſort. Such pain or inconvenience, as he has actually incurred, he will be happy to endure, without repining at providence, or intermitting the exerciſe of his mind and his faculties. If he be in proſperity, he will think the happy part committed to his choice is moderation, equanimity, and beneficence; if, in adverſity, the ſame virtues ſtill remain to be exerciſed in the manner which the occaſion preſcribes.

SECTION

SECTION VII.

Of the actual Meaſures and Sources of Good and Evil in human Life.

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THE value of virtue, as we have endeavoured to define it, will not be queſtioned: For who can doubt the value of a wiſdom, which cannot err; of a temper, which is ever joyful and ſerene, in its exertions for the good of mankind; of a temperance, which no allurement of falſe pleaſure can miſlead; or, of a fortitude, which no difficulty or danger can embarraſs or appal? This, we may be told, is firſt to imagine perfect happineſs, and then to give it the name of virtue; whilſt the whole is ideal, and never realized in the caſe of any human creature.

Such, indeed, is the nature of abſtract ſcience, we ſyſtematize our own thoughts, leaving the application to be ſeparately made. On the ſubject of morals, more eſpecially, we propoſe to inquire, not what men actually are; but what they ought to be, or what are the ideas, upon which they may, and ought to determine their choice in particular inſtances. But, although this be a ſufficient anſwer to the objection which is ſometimes made to moral ſcience,

ſcience, as a ſcheme of viſionary and unattainable perfection. It may not be improper to conſider what are termed virtues and vices in the minds of ordinary men; with their various degrees and occaſions, in order to ſhew that there is not any intention to obtrude definitions and diviſions for hiſtorical facts; and even, that the impracticability of perfect virtue is no reaſon why we ſhould abate our endeavours to do well. *Perfection* is ever to be aimed at, even by thoſe who incur *defects*; and *defects* always to be ſhunned, even by thoſe who come the fartheſt ſhort of *perfection*. If the moraliſt is not to enjoin *perfection*, he muſt do, what of all things is moſt contrary to reaſon, recommend *defects*. The conditions of men are extremely unequal; yet, no one is ſo high in the ſcale of being, as that he may not move a ſtep higher, and no one ſo low, as that he may not get into the way of advancement. Although he may not attain to all the perfections of the wiſe as deſcribed in any of the antient ſects of philoſophy; yet he may not incur all the miſtakes of the fooliſh, and the fewer the better. Happineſs, it ſhould ſeem from the obſervations of the laſt and ſome of the preceding ſections, is a term of praiſe equivalent to merit, and conſiſting in the uniform tenor of a virtuous life: But, as *honeſty conſiſts in meaning well* *, it ſhould alſo ſeem that happineſs is within the competence of every human creature: Whence is it, then, in any inſtance ſo imperfectly obtained? And whence is it, that ſo many complain it is placed beyond their reach? They ſurely do not conſider it as an attribute of their own will and affections.

Men of ſpeculation have riſked a conjecture, that all the difference of genius or character, which have appeared in the world

* *Laudandaque* velle ſit ſatis.

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may be traced to ſome caſual ſuggeſtion of ſentiment or thought; or to ſome ſpecific occaſion, that ſtirred the peculiar paſſion, and rouſed the original effort, which, continued into habit, gave the individual his bias to a diſtinguiſhing caſt of genius or character through life †. But, without pretending, in this manner, to level the original diſtinctions of nature, we may venture to aſſume, that men are much affected by early impreſſions; and continue to take much of their characters from the notions they entertain, and the habits of thinking they have acquired.

As we may know what a perſon thinks from his actions, ſo we may gueſs how a perſon will act, from our knowledge of his habitual ways of thinking, let it be conceived, that to live virtuouſly is to be happy, that to have an evil or malicious thought is miſery; and let theſe ideas be ever preſent to the mind, as the idea of his treaſure is ever preſent to the miſer, or the importance of his own perſon is ever preſent to the coxcomb; and the apprehenſion of a happineſs ſo conſtituted, will amount to a ſteady principle of integrity and beneficence; as their reſpective habits of thinking are, to the miſer, and the coxcomb, the eſſence of avarice, impertinence, and folly.

Self-conceit muſt appear in oſtentation, or in a continual obtruſion on the notice of other men. The admiration of birth and fortune, in one claſs of men, may betray itſelf in pride and contemptuouſneſs, in another claſs, may appear equally in envy and malice, or in ſervility or meanneſs. The temper alſo re-acts upon the judgement. The chearful are inclined to think of gay ſubjects; the melancholy, to entertain gloomy apprehenſions of things; as the

† Helvetius de L' Eſprit.

the courageous are inclined to confide in their fellow creatures, and the cowardly are inclined to diſtruſt them. PART. II. CHAP. I. SECT. VII.

We are diſpoſed towards the objects around us, either as the other animals are diſpoſed towards the objects of ſenſe, by an original inſtinct, or blind propenſity of nature, or by a relation, peculiar to intelligent being, that of the conception we have formed, or the habit of thinking we have acquired.

Such is the ſoil, in which the moraliſt is deſtined to ſow, to plant, and to make his trial of what can be reaped; without being diſcouraged, becauſe the full bloom of terreſtrial paradiſe is not every where, or perhaps not any where, to be ſeen on the earth; and the faireſt fruits come, mixed with the noiſome productions of the wilderneſs.

Moral ſcience operates for our good, only by mending our conceptions of things, and correcting or preventing the errors from which moral depravity or miſery proceeds. The very appellation of good, though no more than a name habitually beſtowed upon its ſubject, has great effect, on particular occaſions, in warping the judgement, and in directing the choice. It was for this reaſon, probably, that philoſophers of old appeared ſo anxious to fix the application of terms, as well as to ſtore the mind, with juſt conceptions. They propoſed, that the firſt principle of morality ſhould eradicate every falſe apprehenſion on the ſubject of good and evil; and ſo become ſufficient to give a juſt direction to the will and affections, wherever they proceed on the pre-conceived notion of things.

Epictetus ſeems to reſt the foundations of virtue and happineſs on the proper diſcernment and choice of objects, which are in

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our own power, in contradiſtinction to things which are not in our power. Among the things in our own power, he reckons "our opinions, our purſuits, our deſires, and averſions; and, in "a word, whatever are our own actions." Among the things not in our own power, he reckons "body, property, reputation, "command, and, in a word, whatever are not our own actions *." Attachment to the firſt, and indifference to the ſecond, are, according to him, the eſſence of wiſdom and happineſs.

It is ſurely happy for any one to be conſcious that the beſt things are in his own power: But, in this, the vulgar are frequently deceived; and recur to fortune, as more in their power, than the attainments of a happy mind. They ſeek for happineſs in external accommodations, rather than in any quality or condition of their own nature: and ſeem to think external circumſtances more in their power, than their own actions; or, what is worſe, think their own actions of value, only ſo far as they affect their fortune.

To this ground of diſtinction, which is laid by Epictetus, we may ſubjoin another, relating to the ſame ſubjects; but taken from a different conſideration of them, that is, from the conſideration of their value, whether real or ſuppoſed, which is in ſome inſtances *abſolute*, in other inſtances merely *comparative*. Among things of abſolute value, are to be reckoned chiefly the habits of a *virtuous* life, *intelligence*, *benevolence*, *temperance*, and *fortitude*; or, in ſhort, the *good qualities* which form the beſt condition of human nature; and which they, who poſſeſs them, enjoy the more that others partake of the ſame bleſſings. Among advantages

* Epictet. Enchiridion, cap. I. Mrs. Carter's tranſlation.

tages merely *comparative*, on the contrary, we may reckon *precedence*, and *ſuperiority*, whether of *riches* or *power*; and, in a word, all the circumſtances, in reſpect to which the *elevation* of one is *depreſſion* to another.

In a former ſection, there was an attempt to account for the origin of malice, from an error or defect of underſtanding, in admitting advantages or diſadvantages which are merely *comparative*, as principal conſtituents of happineſs or miſery. Under this apprehenſion, although a perſon were by nature diſpoſed to benevolence, he is, by the interference of intereſts, checked in the effect of this diſpoſition. And, among parties ſo ſtated, the celebrity of one being obſcurity to another, or the precedence and preferment of one being degradation to the other, they are, in the midſt of ſuch purſuits, naturally rivals and competitors, and have more frequent occaſions of hatred and diſtruſt than of confidence or good will *. "The king †," ſays Baſſompierre, "after "he had given the command of his army in Italy to his brother, "bethought him how much the glory to be won in that ſervice "would obſcure his own; and, ſo powerful is jealouſy, even a-"mong relations, that he took this ſo ſtrongly into his head, or "rather into his heart, as to deprive him of reſt." In this rage for comparative advantages, the ſucceſs of one is diſappointment to another; and the induſtry of one to better himſelf a ſcheme of hoſtility to thoſe who muſt ſink under his elevation.

From this ſource are derived, jealouſy, envy, and malice, thoſe

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* See Sect. of the Origin of Evil.

† Lewis XIII. and XV.

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waters of bitterneſs, which flow ſo plentifully in human life. The wretch, whoſe principal aim is to ſurpaſs other men, joins to ſuſpence, hinderance, diſappointment, mortification, and all the the evils of a precarious fortune, the impoſſibility of extricating himſelf, without a total reverſe of all his imaginations and thoughts. To become candid and humane, he muſt change objects of his hatred and diſtruſt into objects of good will and benevolence; and conſider his fellow creatures in ſociety, as the procurers of much convenience and benefit to himſelf, not merely as rivals and competitors, under whoſe proſperity or elevation of rank he is doomed to ſink, or incur degradation.

Purify the mind of this taint, and moſt of the evils in human ſociety are done away. Deſire would be placed chiefly on thoſe things which are of abſolute value; which any one may poſſeſs in the higheſt degree, without detriment to another; or rather, which, being in the poſſeſſion of one, prove an aid to others in the attainment of like bleſſings.

The reputation of virtue, like celebrity in any other way, may engage men in competition and rivalſhip; but virtue itſelf is promoted by the prevalence of virtue in the world. The lamp of wiſdom is lighted by communication with the wiſe; and benevolence is inſpired in the ſociety of the benevolent. Fortitude and temperance gain ſtrength by example. Whoever can reſt upon theſe qualities of ſupreme value, as the conſtituents of happineſs, finds no occaſion on which to feel the unhappy paſſions which terminate in malice. He is gratified in the welfare of other men; and wiſhes for their elevation in goodneſs and virtue, as he wiſhes for the riſing of the ſun upon the world, as a common benefit to all who partake in his influence.

Antoninus was happy, not in wearing the purple, nor in poſſeſſing the throne of Cæſar; but in the attainments of a ſteady and beneficent mind. In theſe he was no man's rival, and was ready to ſhare every bleſſing, even with thoſe who attempted to ſupplant him in the empire *.

We err, in deriving the corruptions, which are imputed to great cities and courts, from the love of pleaſure, and from the profuſion of wealth, with which the love of pleaſure is gratified. The mere voluptuary is innocent, compared to thoſe who are deeply infected with malice, envy, and pride; a generation of evils begot upon emulation, competition, or the apprehenſion of comparative advantages, whether precedence, titles, or wealth. Wherever the roots of ſuch evil are planted, the concourſe and aſſemblage of men, from which we ſhould otherwiſe expect the practice and improvement of every ſocial diſpoſition, but renders the growth of malevolence more copious and rank. Competitors for the luſtre of equipage and dreſs, might have ſlept in quiet, or enjoyed tranquillity, at their return from a brilliant aſſembly, if the luſtre of ſome other perſon had not proved an eclipſe to theirs; or, if his equipage and liveries had not appeared to ſurpaſs their own, and to carry away from them the attention of the world.

We may therefore admit, that ſuch errors of the imagination are conſtituent of moral weakneſs, and ſcarcely ſeparable from actual depravity of the heart. If no external conſequence ſhould follow, we may thank the adminiſtration of regular goverment, which

* See his Recommendations to the Senate in behalf of Caſſius.

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which checks the tendency of unhappy paſſions; and applaud the eſtabliſhed decency of manners, which require certain meaſures or appearances of candour to be preſerved, even between parties at variance with one another; and which not only conceal the torment of unhappy paſſions, but tend, in ſome degree alſo, to conciliate good will, by inſpiring forbearance, where the tendency of competition is to awaken jealouſy, or hatred, and give occaſion to offenſive behaviour.

The great weight of corruption, proceeding from the jealouſy of competitors for riches, power, and court favour, without the counterpoiſe of external reſtraints, from decency and good manners, ſunk the capital of the Roman empire, and the palace of Cæſar, into ſcenes of the moſt atrocious brutality, perfidy and cruelty: And, it muſt be confeſſed, that the conſideration of ſuch conſequences would be ſufficient to warn us againſt like notions of good and evil: or, if men were to form their opinions, not on the evidence of fact, but on the grounds of expedience; nothing can be more evident, than that a conception of happineſs, in things out of our own power, or in things of which others are in haſte to prevent our enjoyment, by ſtepping before us, muſt be attended with fruitleſs longings, heart burnings, jealouſy and malice. But, if ſuch be the nature of good, relating to us, philoſophers, it will be ſaid, may diſpoſe of names as they may think proper, and call any gift of fortune indifferent; but they themſelves will not be the leſs deſirous to poſſeſs it. Nor can men be required to have any other conception of good and evil, than what the real aſpect of things in nature ſerves to ſuggeſt.

So much is admitted; and the queſtion relating to *what is good*, whatever

whatever notion of things it be moſt expedient for us to entertain, muſt recur for ſolution to the tribunal of fact and experience.

Let the fact therefore decide! Are men happy or miſerable, in the preciſe degree of their good or ill fortune; or of their precedence to others? If ſo, fortune and precedence are the ſole good. But, if men are found equally happy, or equally miſerable, under great varieties of rank and fortune, it is evident that the meaſure of happineſs or miſery is not to be taken from thence; and that a wiſe man will not adopt an opinion, nor countenance a form of expreſſion, at once inexpedient and contrary to fact.

In fixing the notions of good, it is not wiſe to rely for happineſs, on things which are not in our own power; on things which are not of any abſolute value; but, which pleaſe only by compariſon with what other men poſſeſs, and which therefore engage us in a competition and ſtrife, adverſe to the beſt and happieſt qualities of our nature.

Neither is it wiſe to rely for happineſs on the mere poſſeſſion of things, which may be well or ill uſed, and which, in being abuſed, are no leſs the occaſion of miſery, than in being properly uſed they are the occaſion of happineſs.

As happineſs is a condition of the affections and temper, mere external ſituation is not to be conſidered as any part of it, farther than the external circumſtance is able to produce that internal condition, or happy ſtate of the mind.

The Stoics, proceeding upon one or other of theſe maxims, limited the appellation of good to virtue, that of evil to vice alone.

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Under this limitation, their famous paradox, *that pain is no evil*, and the gifts *of fortune indifferent*, meant no more, than that there was not any moral turpitude in pain; and that the gifts of fortune neither exclude, nor ſecure, the poſſeſſion of virtue. This, indeed, they conſidered as ſufficient conſolation to thoſe who labour under any external inconvenience, whether of adverſity or pain.

As a material on which virtue may operate; as an inſtrument of beneficence; as a ſtake, for which men are to play, and become gainers or loſers for themſelves or others in the game of human life, they allowed that external poſſeſſions have their uſe, and that they merit the attention of the wiſe: but to rely on them in any determinate meaſure for happineſs they mantained to be extreme folly. In purſuance of this doctrine, they would not proſtitute the denomination of good to any thing that was not virtue; nor permit any thing to be called evil that was not vice; and would not have a man ſet his heart, or rely for happineſs, upon any thing beyond his own province of reſponſibility or conduct. In this manner they ſtrove to cultivate an elevation of mind which would not owe its good to any contingent circumſtance, nor to any will but its own. They would ſet at defiance the events of fortune or the caprice of other men. They would not be in fear of any adverſity which could not hinder their acting a virtuous part; nor be flattered with a proſperity which could add nothing to the merit of a virtuous life.

The Peripatetics were content to remain on a ſtep below theſe high pretenſions. They too held virtue to be the ſupreme good, and had juſt maxims of integrity and honour, but comparatively enfeebled

enfeebled, as the Stoics alledged, with a notion that even these depended on fortune for part of their effects. While they assumed virtue, or a laudable part to be acted in the community of mankind as the supreme good; and reprobated the recluse tranquility, or selfish enjoyments of the Epicurean, as poison to the soul of man, and death to his best and happiest affections; whilst they allowed, that the highest measure of fortune never could be brought into competition with any consideration of justice or duty; they still required prosperity, to compleat the felicity even of a virtuous life.

In this argument, the Stoics, though charged with paradox, and themselves the more ordinary butts of ridicule, yet turned this weapon against their antagonists: "You allow," they said, "that "virtue is the constituent of happiness, and even that fortitude "is a virtue; and yet to complete that happiness, you require a "fortune, which virtue despises, and an ease in which fortitude "is not required. You tell us of a good which the thief may "steal from his neighbour; which the miser may lock up in his "coffers from all the world; which the glutton may devour at "a meal; which may be denied to the worthy, and lavished on "the vile. You preach up moderation, and even abstinence, "with respect to this good. You own it is mean to be solicitous "about it; and noble to despise it. You call that a good, therefore, "of which the contempt is wisdom and honour; of which the "privation did not marr the happiness of Epaminondas and "Socrates; nor secure the condition of Darius or Crœsus. The "wise man, they said, will acquit himself properly with respect "to the gifts of fortune; but, for his happiness, will rely upon "what he himself does; not upon what he possesses; upon the

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"general resolution, integrity and goodness which are his own;
"not upon the caprice of other men, nor upon the measure or
"degree in which the materials on which he is to work falls to
"his share."

This may well be considered as a degree of perfection, far raised above the ordinary state of human nature: It is, nevertheless, that, for which it was given, a noble idea, upon which the ingenuous mind cannot too nearly form itself.

Men very commonly suffer themselves to depend, for present comfort, upon some distant object, or the hopes which they entertain of the future. This is no more than a habit of thinking; yet it may produce frivolity and weakness, if not depravity of mind, or neglect of duty. The future seldom comes up to the expectations that were formed of it: But it is the nature or character of feeble minds, notwithstanding the fallacy of past expectations, to apprehend a future, on which, to the neglect of present objects or duties, they still continue to rely.

Material subjects, or external circumstances of any kind, except so far as they affect the organs of sense with pleasure or pain, are in their own nature indifferent; and, if beyond this they excite desire or aversion in the mind, it is by means of some quality, whether of good or evil, honour or dishonour, which are not inherent to the subject itself; but associated with it, in the conception which the mind entertains. The miser has associated happiness with money, in his conception of riches; and is insatiable of wealth. The usurper has associated honour with power or dominion; and sticks at no means, whether of insinuation or force to obtain his end.

Whatever

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Whatever be the habitual conception, and the habitual purſuit, theſe form the ruling affection or paſſion of the human mind: If the object, in itſelf, were fitted by nature to excite ſuch affection or paſſion, as the juice of an orange produces the ſenſation of ſweet, the affections or paſſions of all men, like the ſenſation produced on their palate, would be the ſame. But, while ſenſations are uniform, conceptions are various; one perſon hopes for what, to another, is an object of fear: Inſomuch, that many have thought themſelves juſtified in concluding, from theſe appearances, that there is not in reality any ſtandard, by which to rectify or to fix the apprehenſions of men. But, as we have found the diſtinction of good and evil ſufficiently eſtabliſhed in the nature of things, we have only to apply this diſtinction, in order to correct any miſtake or falſe apprehenſion, reſpecting the ſubjects of eſtimation or choice; and, in our endeavour ſo to profit by the exerciſe of reaſon, conſiſts the fruit of that information on the ſubject of good and evil, which it is the object of moral ſcience to obtain or convey.

SECTION VIII.

The ſame Subject continued.

Ἁ τȣς μεν ειδοτας καλȣς και αγαθȣς ἡγειτο ειναι: Τȣς δε αγνοȣντας ανδραποδωδεις αν δικαιως κεκλησθαι.

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IF, to avoid the imputation of viſionary ſchemes, it be required to keep in view the actual ſtate of men's minds, as well as the abſtract idea of what they ought to be, we may continue to offer a ſpecimen of the opinions, or habits of thinking, in which the characters of men commonly originate; truſting that a few examples may be ſufficient to lead every perſon in purſuing the ſame tract of obſervation for himſelf.

There are perſons, we know, who do not ſo much reprobate the vices to which mankind are ſubject, as depreciate human nature

ture itſelf. This is an unhappy turn of thought, tending to ſtifle the ſentiments of humanity or good will towards others, and to check the efforts of any ingenuous endeavour in the perſon who would improve himſelf. Man is formed to take part in the common cauſe of his fellow creatures; and he ſuffers in thinking meanly of their nature: He is formed for progreſſion; and is fruſtrated in having his pretenſions ſtated ſo low as to check his exertions. Men will not attempt what they think is altogether viſionary and beyond their reach: But, in the gradation of human character, there are every where faults to be corrected, and improvements to be made, of which the ſmalleſt poſſible effect is ever preferable to none. Socrates believed that men might be diſpoſed to mutual beneficence, and that numbers were ſo diſpoſed. Ariſtippus conceived that all pretenſions to the love of others were falſe; and that every one propoſed to be of uſe only to himſelf. The one was inclined, by his conception, to benevolence and magnanimity; the other to ſelfiſhneſs and diſtruſt.

There is an error ſeemingly oppoſite to this depreciation of human nature; but, in its defects, alſo productive of miſery. Such is an overweaning conception or imagination of what men actually are, producing an ill founded confidence in the ſuppoſed prevalence of generoſity, magnanimity, truth, and ſincerity, of which the undiſtinguiſhing aſſumption not only expoſes the mind to folly, diſappointment, and other effects of miſtake; but leads, in the ſequel, to the very oppoſite extreme of diſtruſt of mankind, and deſpair of virtue.

To the well-informed and the well-diſpoſed, virtue is not the leſs real that vice is frequently oppoſed to it. The mixed ſcenes of human life are its proper ſtation. Here, it is equally ſignaliz-
ed

ed in withſtanding the evil, as in co-operating with the good; and its happineſs depends, not upon the conſent or participation of others, but on the degree in which it exerts itſelf.

It is unhappy to reſt our choice of good qualities on the ſuppoſition that we are to meet with correſponding qualities in other men; to apprehend that candour and humanity are due only to the candid and the humane; or, that want of merit in others will diſpenſe with that juſtice or liberality of conduct, which it is our happineſs to maintain for ourſelves.

In conſequence of ſuch conceptions, we ſometimes repent of the good we have done, when, (as we ſuppoſe), the parties concerned appear unworthy of kindneſs: And, in ſuch inſtances, the rule of our conduct is taken from what others deſerve, not from what is becoming in ourſelves. Want of merit in the world is alledged, as an excuſe for indifference to mankind; and what is perhaps in us a deſire to ſhift our own duty, is miſtaken for the ſeverity of virtue. Inſtead of ingenuous actors, we become ſqueamiſh obſervers of other men; and, taking offence at their behaviour, indulge animoſities little ſhort of malice.

It is unhappy to conſider perfection, more as the ſtandard by which we may cenſure others, than as the rule by which we are to conduct ourſelves.

We are by nature enabled to conceive a meaſure of excellence beyond what we are able to attain. This, when the ſtandard is applied to ourſelves, may become a ſource of indefinite progreſſion; but, when applied only to other men, is a pretence for invi-

dious cenſure; inſomuch that, a principle, which ought to incite in us the choice of good qualities, and a diſpoſition to correct our own faults, is employed only as an occaſion of contempt or malice towards our fellow creatures. Every ill diſpoſition is unhappy; but the miſery is then the moſt complete, when ill diſpoſitions ſet up for cenſure, and aſſume the pretence of holy zeal, or concern for what is right.

It is a wretched opinion, that happineſs conſiſts in exemption from labour, or in having nothing to do.

This opinion is taken up, perhaps, from the abuſe of words, when we contraſt the enjoyment of ſome ſuppoſed good with the expectation and purſuit of it. In this contraſt, we fancy that enjoyment begins only when labour has ceaſed; and, in this apprehenſion, the world is full of expectants, who think, that their happineſs is deferred by the labours and toils they undergo in finiſhing the taſk which Providence has preſcribed to them. They ſigh for relief from trouble, and ſometimes obtain it; when, fortunately for the inſtruction of mankind, they ſhow, by their example, that the languors of in-occupation are more grievous than toil.

The wiſh to have nothing to do, is moſt excuſeable in perſons who, having labours preſcribed by neceſſity, are frequently urged on to fatigue. The powers of human nature are limited, and require alternate periods of repoſe as well as exertion; but, as the too long continuance of labour is grievous, ſo the continuance of inaction, beyond the time that is required for repoſe, is attended with a wearineſs and languour, no leſs diſtreſsful than fatigue.

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The notion, that happineſs conſiſts in relief from any active engagements, is eaſily accounted for, alſo, in the caſe of thoſe who, having a taſk to perform, never engage in it willingly. The taſk poſſibly confines them, and prevents their application to any thing elſe, while it does not ſupply thoſe real exertions of mind, which never fail to make the time that is well employed paſs away with delight. The perſon who is thus confined, without being occupied, miſtakes his averſion to confinement for an averſion to buſineſs; and his longing for a change of occupation he miſtakes for a diſlike to exertion. Thus, while the ſchool-boy is confined on his form, his heart and his mind are in the play-field. As he does not apply to his leſſon, nor even attend to it, while he reads it, he is only confined, not occupied. What we term his averſion to application, and his longing for the hour of diſmiſſion, is an ardor for employment; and, in fact, when free to chuſe for himſelf, he betakes him to a labour, in which every muſcle of the body, and every faculty of the mind, is ſtrained or exerted to obtain the object of ſome hazardous or toilſome conteſt.

It is thus common, through life, to be reluctant in buſineſs, and fond of amuſement: But, while in declining buſineſs men ſeem to reckon any kind of employment a grievance, they, by recourſe to hazardous ſports and diverſions, make ample confeſſion that ſome kind of active and even ſerious engagement is indiſpenſably neceſſary.

The diſtinction between buſineſs and amuſement is perhaps not eaſily ſettled, or conſiſts intirely in this, that buſineſs is preſcribed by ſome conſideration of intereſt or duty; and amuſement is taken up, in the beginning at leaſt, without any ſuch ſerious concern.

But

But if buſineſs be diſtinguiſhed by the importance of the object, on which it proceeds, amuſement ſoon becomes inſipid, unleſs means are found ſufficiently to intereſt the mind, and exerciſe its faculties. This end, indeed, is obtained by the votaries of play, in creating to themſelves a riſk, which far exceeds that of the merchant in the adventures of his trade, or thoſe of the politician in his proſpects of elevation or power. The hazards incurred by either are inſipid, compared to the chances of loſs or gain, in which the finiſhed gameſter is known to involve himſelf. Nor is this a refinement only of poliſhed ages. The mere ſavage, after he is ſtript of all his other poſſeſſions at the gaming table, cloſes the ſcene with a throw, on which he ſtates the freedom of his perſon *.

Buſineſs, to thoſe who are really occupied, may have all the qualities of an agreeable paſtime. If it be a diligent performance of the offices incumbent on a man of integrity and virtue, it will join the ſatisfaction of a mind conſcious of duty, to that of a mind employed in the exerciſe of its faculties, and exempt from fear, malice or remorſe. So that, to thoſe who decline buſineſs for the ſake of amuſement, it may be ſaid, that they reject what is fitted to employ them agreeably; and in order to quicken the feelings of a mind which is become languid for want of employment, betake themſelves to purſuits in which they become a prey to evil paſſions. Such is the effect of diſſipation, a weakneſs of the mind which loaths its beſt occupations, as the ſickly ſtomach is found to loath the moſt wholeſome food.

We may conclude, therefore, that the love of amuſement is unhappy,

* Aleam (quod mirere) ſobrii inter ſerva exercent, tanta lucrandi perdendive temeritate, ut cum omnia defecerant, extremo ac noviſſimo jactu, de libertate et de corpore contendant. TACIT. de Moribus German. c. 24.

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unhappy, if it proceed from a notion, that any thing can amufe us better than the duties of our ftation, or that any employment is more to be wifhed for than that precifely which in the prefent moment has fallen to our fhare. If any one have formed fuch a notion, he may be told to beware of it. It will difqualify him for his beft enjoyments and embitter his life with peevifhnefs and melancholy.

It is unhappy to conceive beneficence as an effort of felf-denial; or to conceive that we lay our fellow creatures under great obligations, by the kindnefs we do them.

This notion refers chiefly to acts of charity or liberality; in which the beneficent gives to another what might be of ufe to himfelf. It were vile to be infenfible of fuch merit; but the perfon, who gives fuch proofs of goodnefs, is himfelf the laft to over-rate its value. "If I have done a kindnefs to my fellow crea-" tures", fays Antoninus; "is not this itfelf my benefit? let me "not forget it, nor ever ceafe to do fuch things".

To the fame effect, alfo, we may tranfcribe the following paffage: "There are fome who, when they have done you a good office, "are apt to remind you of it. Others do not mention what they "have done; but have it uppermoft in their thoughts, and con-"fider you as their debtor. A third fort do not feem to know "what they have done; but are like the vine which produces its "grapes, and *has done*, when it hath yielded its proper fruit.

"As the horfe when he has finifhed his courfe; the hound, "when he has ended his chace; the bee, when it has made its "honey; fo he, who is truly a man, performs a good office,

" without any noiſe ; and proceeds to the next that occurs to be " done, as the vine, in its proper ſeaſon, renews its foliage and " its fruit. We ought to be of the number of thoſe, who do " not ſeem to know the good they have done : Nay but ought " we not to be conſcious of beneficent intentions ? Is it not the " property of a ſocial being, to wiſh well to his fellow creatures. " Yea, ſo help me God, to deſire, too, that his fellow creatures " ſhould be ſenſible of his beneficence ? What you ſay is true, " yet, if you miſapprehend what I ſaid above, you will belong " to one of the former claſſes, and be among thoſe who are led " aſide from perfection by ſpecious reaſons. But, if you are " willing to obſerve the diſtinction, that is made between thoſe " firſt claſſes and the others, do not be afraid that it will cauſe " you to fail in any ſocial action *".

If virtue, whatever be its external mode of exertion, be itſelf the excellence or good of human nature, (and we do wrong if we admit of any thing elſe as virtue) or, if it be, in the intellectual world, what health, and ſtrength, and beauty, are in the animal kingdom ; there is no reaſon to apprehend, that a fellow creature is obliged to us for being virtuous, any more than he would be obliged to us for being in health.

The offices of a ſound mind are as natural to the virtuous, as thoſe of a ſound body are to the healthy. The humane and the candid can never ceaſe to perform the offices of humanity, and candour, although they do not conſider, in what degree others may be obliged to them for ſo doing.

* Anton. lib. v. c. 6.

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It were unhappy to conſider virtue as a taſk, conſiſting of external performances, enjoined under the ſanction of rewards and puniſhments. We can no more become benevolent, from the hope of reward, or the fear of puniſhment, than we can poſſeſs ourſelves of fortitude from the love of eaſe or averſion to trouble. The ingenuous and high minded believes the reality of future rewards and puniſhments; but, if they are any thing different from the poſſeſſion or privation of that goodneſs, to which he aſpires, they are mere acceſſaries to the conſiderations from which he acts; they may be uſeful, in reſtraining a criminal diſpoſition, but are not neceſſary, in directing or forming the virtuous to his duty; much leſs, is a regard to them an eſſential conſtituent of his character.

If the future lot of the righteous be happy, his preſent condition in the practice of virtue is ſo alſo; and it were abſurd, ſurely, to conceive that a perſon muſt not prefer the good which he may now enjoy, but for ſake of a good which he is to enjoy hereafter.

It is unhappy to admit of any conſideration in competition with our real good. "There is hardly a man to be found," ſays an ingenious obſerver*, "who would not rather be in pain, to appear "happy, than be really happy, to appear miſerable." So familiar are the examples of paradox, even in the conceptions of the vulgar. As they examine their own aſpect by reflection from a mirror, they judge of their own condition by reflection from other men's thoughts; conſult the opinion of others, rather than their own feelings; prefer conſideration, or the reputation of worth, to worthineſs itſelf; and do not ſo much conſider how far they deſerve praiſe, as how far they poſſeſs it.

This

* The Tatler.

This is beginning the work of felicity at the wrong end; labouring for a ſuperſtructure before they have laid a foundation; and ſtriving to produce a ſhadow without any ſubſtance.

All men would be happy. The moſt erroneous paſſions miſlead from this object only by miſtake; and, it is to miſtake their own aim, when they would produce abroad the appearance of happineſs, before they have poſſeſſed it in the qualities of their own minds. The reality will not fail to carry its external appearances; or, if it ſhould be unobſerved or miſtaken, the diſadvantage is comparatively of ſmall account.

It is ſufficient reſpect to the opinions of other men, that we are pleaſed with their teſtimony, without ſacrificing the conſciouſneſs of an ingenuous mind to what the world may think, or without preferring the appearances of merit to the real though ſilent poſſeſſion of it.

In this, the miſtake is doubly to be regretted, as it implies the ſubſtitution of a falſe object for the true one, and the ſubſtitution alſo of what is precarious, and depending on the caprice of others, what is matter of anxiety and diſappointment, for an attainable and ſecure poſſeſſion. Such is the choice which the vain-glorious has made, in preferring the opinions of other men to the poſſeſſion of real good qualities in himſelf, which he might cultivate ſecurely, and on which he might rely without any hazard of a diſappointment.

It is unhappy to depend for enjoyment on what we cannot command, or to fix our deſires on what is beyond our reach.

Thus,

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Thus, it were unhappy for the labouring man, to long for exemption from labour. It were unhappy, in the poor, to aim at appearing like the rich; to long for an equipage, a retinue, a palace, a table; and think himſelf excluded from happineſs, in being deprived of theſe things.

Ambition, or the unwearied deſire of ſomething higher than we poſſeſs at preſent, is a principle well ſuited to the nature of man; and it is, in ſome one or other of its applications univerſal to mankind. If it apply to invigorate the practice of virtue, and the exerciſes of a mind, ingenuous, candid, and humane, this every one has in his power. If it apply to the conduct of ordinary buſineſs, whether private or public, ſtill the perſon ſo engaged may be well employed for the preſent; and, if he complain of miſery in the abſence of his object, we may venture to queſtion the wiſdom or the temper of his mind.

The ingenuous, the ſtrenuous, and ardent, though we ſhould ſuppoſe them not to reflect on the merit of the part which they are acting, are happy in the very exerciſe of their diſpoſitions and powers; and this is ſo far from being inconſiſtent with the purſuit of an object, that it requires, or pre-ſuppoſes ſome object to engage the mind, and give occaſion to the exerciſe of its faculties.

" That the mind of man," ſays the Rambler, " is never ſa-
" tisfied with the objects immediately before it, but is always
" breaking away from the preſent moment, and loſing itſelf in
" ſchemes of future felicity, and that we forget the proper uſe of
" the time now in our power, to provide for the enjoyment of
" that

" that which perhaps may never be granted us, has frequent- " ly been remarked; and, as this practice is a commodious sub- " ject of raillery to the gay, and of declamation to the serious, it " has been ridiculed with all the pleasantry of wit, and exagge- " rated with all the amplifications of rhetoric. Every instance, " by which its absurdity might appear most flagrant, has been " studiously collected; it has been marked with every epithet of " contempt, and all the tropes and figures have been called forth " against it.

" Censure is willingly indulged, because it always implies " some superiority: Men please themselves with imagining that " they have made a deeper search, or wider survey, than others, " and detected faults and follies, which escape vulgar observa- " tion," &c.

" This quality of looking forward into futurity," continues the same author, " seems the unavoidable condition of a being, " whose motions are gradual, and whose life is progressive: As " his powers are limited, he must use means for the attainment of " his end, and intend first what he performs last; as, by conti- " nual advances from his first stage of existence, he is perpetually " varying the horizon of his prospects, he must always discover " new motives of action, new excitements of fear, and allure- " ments of desire.

" The end, therefore, which at present calls forth our efforts " will be found, when it is once gained, to be only one of the " means to some remoter end. The natural flights of the human " mind are not from pleasure to pleasure, but from hope to " hope.

" He

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"He that directs his ſteps to a certain point muſt frequently "turn his eyes to that place which he ſtrives to reach. He that "undergoes the fatigue of labour muſt ſolace his wearineſs with "the contemplation of its reward."

So far this author ſeems to contend for a reliance on the future, as the principal conſtituent of preſent happineſs; and it may be difficult to combat any folly, if this Hercules with his club ſtands in the way to defend it. He may, however, be quoted againſt himſelf. "Labour," as he has ſtated in another place, "is its own reward;" and, in the ſequel of the paſſage now quoted, he owns, "that ſome caution againſt keeping our view "too intent upon remote advantages, is not without its uſeful-"neſs"

It is the object of reaſon, in this matter, to diſtinguiſh the objects to which our views may be ſafely directed, from thoſe which miſlead our deſires, and furniſh nothing to gratify the mind for the preſent, beſides a vain expectation of the future.

Of the latter kind, are all thoſe objects, which are ſo far out of our power, that we cannot form any reaſonable plan of exertion or application in the purſuit of them. To indulge in the hope or deſire of ſuch things, is that cauſe of miſery, which we are now conſidering. Under its effects, the miſguided mind is urged by a ſenſe of its wants, but is precluded from any agreeable exerciſe of faculties, or of power to obtain their ſupply.

With a better choice of an object, the caſe may be different. A perſon may *direct his ſteps* to a certain point, and frequently

turn his eyes to that place which he ſtrives to reach, while his walk is pleaſant, and the exerciſe it gives him is eligible, upon its own account. PART II. CHAP. I. SECT. VIII.

Nor is this any great effort of philoſophy, or aim at perfection: It is common in human life, in all its innocent or rational purſuits: It is the courſe in which men have enjoyed the exerciſe of their faculties, and by that exerciſe improved their powers; in which they have been led to obſerve the ſyſtem of nature around them, to extend their knowledge, and to multiply arts, whether lucrative or agreeable. It is in the preſent occupation of their nature they find occaſion, whether for oppoſition or concert, and have their abilities or their diſpoſition to beneficence brought to the teſt. So that, in numbering the bleſſings of human life, we may venture to reckon the act of purſuing its object, as of more value than the object purſued; and may rely much more, for happineſs, upon the means which are employed for the attainment of our end; than we are to rely upon the end itſelf, even when obtained: Inſomuch that, if any perſon looking forward to the future is unhappy for the preſent, we may venture to affirm, either that he has miſtaken his object, and fixed his deſires on that which does not admit of his taking any reaſonable meaſures for the attainment of it; or, that if his object be reaſonable, and ſuch as he may purſue with advantage, he has certainly failed in the proper exerciſe of his faculties, in that courſe of induſtry and diligence, which his object preſcribes: Inſomuch, that *raillery and cenſure* too are very properly applied to thoſe, who, *ever intent on the future, are unable to enjoy the preſent.*

Whatever be the end, which perſons of this deſcription propoſe to themſelves, their preſent ſufferings imply ſloth, ill temper, and

 puſillanimity,

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pusillanimity; either a want of proper exertion for the attainment of their end, or the wrong choice of an end which does not admit of any reasonable exertion.

Wherever the faculties are reasonably exerted, if to this we join the exercise of good affections, the sense of innocence and beneficence, magnanimity, courage and temperance, the one an exemption from unreasonable fear, the other an exemption from brutal excesses, the cause of happiness is present, and does not depend upon any thing future.

Persons blessed with alacrity and goodness of disposition, are thus happy in the course of their ordinary pursuits; and, even while their object is distant. So the boy is gratified at his play, the gentleman at his sport, the plowman at his labour, the tradesman in his workshop, the soldier on his march, the statesman in his office; and each, proportioned to his alacrity, and to the application he gives to his business. So that, in censuring those who, from their attention to the future, are unhappy at present, it is not the ordinary state of a man, or of a progressive being, that we censure; it is the vice, and the folly of those, who, from sloth or the defects of temper, are disqualified to employ themselves well for the present.

It were unhappy to think ourselves unable to struggle with difficulties, under which others appear to be much at their ease.

In respect to what nature will bear, one person may serve as a model to another; and teach him what he may endure or perform. The peevish may be apprized of his own strength, by the example

example of numbers who are chearful under hardſhips, no way leſs grievous than thoſe which cauſe him to repine.

Man is not formed to acquieſce in any preciſe ſituation. In the beſt, he finds ſomething to do; and, in the worſt, is then only unhappy, when he ſuffers his courage and powers of exertion to be overwhelmed. While he exerts himſelf to remove an inconvenience, he ought to be ſo far patient under it, as, in his endeavours to procure relief, fully to poſſeſs himſelf and his faculties.

In the variety of conditions incident to mankind, reſpecting the meaſure of their external ſupplies and accommodations, we may accordingly obſerve a wonderful latitude, in the meaſure of hardſhip or inconvenience to which they can ſubmit, joined with a continual deſire of improving their condition, even when at the beſt. Here is contentment joined to impatience, of that with which they are content. Both are neceſſary qualifications of man's progreſſive nature: The diſadvantages, under which he labours in any one ſtate of his fortunes, do not diſqualify him from proceeding with alacrity, diligence, and ability, in mending his condition; nor does any advantage he ever has gained ſo far content him, as to terminate any farther exertion of his faculties.

This happy mixture of fortitude under preſent inconvenience, with a vigorous effort of mind, for the removal of it; although the juſt balance of temper be frequently overſet in the minds of particular men, is, nevertheleſs, a general characteriſtic of the human ſpecies.

The weak are querulous and peeviſh in their preſent ſituation, yet

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yet do not exert themſelves to remove the cauſe of their ſuffering. They ſee numbers, on every ſide, who bear ſuch a lot as theirs with indifference, and yet are pleaſed to think themſelves ſingularly wretched. They are ſo, no doubt; but it is a wretchedneſs of temper and opinion, not of external condition.

In ſuch inſtances, frequently, the mind is wounded, rather in its conception of dignity, than in its ſenſation of harm, from the actual effect of external circumſtances. Certain privations are conceived to effect a diminution of rank; and the very pride, which is offended in this diminution, diſables the ſufferer from endeavouring to procure his relief. Pride is ſupine, ſullen, and liſtleſs; in many other reſpects, a principle of miſery or ſuffering; and, in this, a diſqualification for any of the efforts, which are required to reform either the character of the man, or to remove any cauſe of complaint from abroad.

There are ways of thinking, which miſlead and tend to corrupt whole nations at once. Falſe notions of religion, which interpoſe the authority of God in behalf of any frivolous or cruel practice; ſyſtems of bigotry and intollerance, which ſet mankind at variance, and lead to perſecution and mutual deſtruction, on the ſcore of difference in matters of faith or worſhip; falſe notions of honour, which promote quarrels, diſtruſt, and mutual wrongs; falſe notions of liberty, that indiſpoſe men to ſubordination, or public order; falſe notions of government, that ſubſtitute force and diſcretionary power, for law and juſtice; falſe notions of rank, that attach elevation to mere birth and fortune, excluſive of merit; or that proceed on a notion of eminence, which no public ſervice or luſtre of character can ſupply. Under ſuch apprehenſions, a diſtinction or ſuppoſed elevation of rank, which

ought

ought to incite the mind to noble actions, ferves to difcourage thofe who would afpire to real greatnefs; and flatter thofe who think themfelves great, with the notion of an exemption from the neceffity of merit, or of any good quality whatever.

From the example of mankind, in numberlefs inftances, the importance of opinion or habitual conception is obvious. The perfon who habitually conceives that the church yard is haunted, or that goblins ply in the dark, trembles with fear, where another having no fuch conception is calm and undifturbed; and the mind, in either cafe, may be faid to be the author of its own good, or its harm. The one may fuffer himfelf to be infected with that weaknefs, or the other may be corrected of it, according as they neglect or employ their reafon to its proper ufe.

The opinions which tend to happinefs are the reverfe of thofe which tend to mifery. In treating of the one, we naturally refer to the other. In oppofition to that corrupt ftate of apprehenfion, in which the diftinctions of fortune are fubftituted for thofe of merit and demerit, we may obferve it is happy to be guided in our eftimation of perfons not by fortune and fafhion, but by the merit of intelligence, probity, equanimity, and candour.

In matters of mere inclination or will, it is natural to become in ourfelves what we admire in other men. And perfons, to whom the ftandard of eftimation is perfonal worth, have already received the bias of an ingenuous mind to integrity and honour; fo much, that to efteem and to love thofe virtues in others, amounts nearly to a poffeffion of them in ourfelves.

To be ready, on all occafions, with difcernment and truth, in

matters

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matters of duty, to ſtate to ourſelves,—This is what I have to do, and this is the part for which I am reſponſible; with a habit of limiting our own deſires to a full and perfect diſcharge of the office ſo aſſigned us, is rather indeed the eſſence of happineſs than a mere conception tending to obtain it.

All men partake in the concerns of ordinary life, and cannot without abſurdity neglect their own ſubſiſtence and accommodation, the œconomy of their fortune, the ſettlement of their families, the defence and welfare of their country; but happy are they who, in ſuch matters, can diſtinguiſh the part aſſigned to themſelves from the part which Providence has reſerved to itſelf. To man it is given to exert his natural powers with diligence, benignity, and courage; but the event, in every tranſaction is at the diſpoſal of Providence; and the happieſt conception or habit of thinking, of which man is ſuſceptible, is, that the part aſſigned to him may be equally ſupported under every change of events, and that events do but form a change of the ſituation in which he is to act. Let him ſincerely lament the misfortune of his friend or his country; but let him be ready, alſo, with all his ability, to retrieve ſuch misfortunes.

Life itſelf, with all its ſupports, is precarious and temporary. The longeſt liver muſt die, and the ſhorteſt liver can do no more. For us, it is happy to know, that our concern is to conduct ourſelves well through life, whether it be ſhort or long. Benevolence and courage are ſufficient to happineſs; malice and cowardice conſtitute miſery, whether the life in which they are incurred be of long or ſhort duration.

It is happy to conceive the integrity, diligence, and fidelity, which

which are in our own power, though unobſerved by others, as the completion of good to ourſelves. It is happy to conceive the debaſements of a malicious and cowardly nature, not as matters of degradation merely in the opinion of other men, but as in themſelves the completion and eſſence of all the evil to which we are expoſed.

In the relations of mankind, the brother cannot rightly act the part of a ſtranger, the citizen the part of an alien, nor the individual, conſidered apart from every particular relation, rightly forget that he is a man, and has a common cauſe with mankind. On this ſubject, every juſt conception is productive of happineſs, and leads the individual to conſider himſelf as ſurrounded with objects of affection, and the affection he bears in his mind as the principal excellence of his own nature.

It is happy to know, that the cauſe of juſtice and goodneſs is ſecured by infinite wiſdom and power; to conceive ourſelves as inſtruments in the hand of God, to be employed for the good of his creatures, and our happineſs as conſiſting in the willing conſent of our minds to be ſo employed.

The adorable perfections of God inſpire a confidence, a veneration, and love; which amount, at the ſame time, to a conviction, that goodneſs and wiſdom, even in ſuch meaſures of them as are communicable to created beings, are of the higheſt value; and the affection they inſpire is in itſelf a diſpoſition to receive the communication of them.

It is happy, in every place, to carry in our thoughts, that we are in the ſituation in which it is the will of God that we ſhould

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act; and that to act, in ſuch ſituations, with diligence, integrity, and good will to mankind, is the part he requires of us.

Whoever thus habitually thinks or conceives of himſelf, is poſ-ſeſſed of religion, virtue, and happineſs. This no one can procure for another. It is left by the Almighty for every one only to procure it for himſelf. Aurelius accordingly procured it for himſelf, but could not for his ſon. With this unhappy perſon, notions imbibed among the meaner domeſtics of the palace precluded the inſtructions of the father and of the friend.

If happineſs were an attainment of the mind, to be acquired as a ſcience or an art is learnt from a maſter, the teacher might juſtly be conſidered as the vicegerent of God; and no place could contain the numbers that would flock to his ſchool. But, in this the Almighty has delegated his power to every perſon only reſpecting himſelf: But he has provided a diſcipline, in the reſult of which, perhaps, even the moſt depraved may, in the end, become willing to avail themſelves of the truſt which the Author of their nature has repoſed in them. When error, and folly, and profligacy, drained to the bottom of the cup, ſhall have led the mind to nauſeate the draught, better thoughts may ariſe, and man, thoroughly appriſed of what is evil, may become willing to remove it, and intentionally work himſelf into habits of what he conceives to be good.

Such may be, reſpecting the moſt refractory ſubjects, the effect of a moral government, which actually operates in the nature of things, and in a manner of which we have formerly endeavoured to remark ſome particulars. Reaſon and knowledge may haſten its effects; and for this purpoſe our feeble endeavours

to

to erect the fabric of ſcience, that they who reſort to it may proceed on a juſt knowledge of their place and deſtination in the ſyſtem of nature. PART. II. CHAP. II. SECT. I.

The happy, without incurring either dejection or pride, from events whether proſperous or adverſe, rely chiefly on what is of abſolute value, health of body and ſoundneſs of mind; and may reckon, as their higheſt privilege, the power to preſerve, in all the varieties of fortune, a diſpoſition, candid, fearleſs, temperate, and juſt. Even among the gifts of fortune, they can obſerve and enjoy matters of abſolute value, in reſpect to which there is no poſſible ground of interference or competition: Such are the bleſſings which nature has equally provided for all men: The water of the fountain, or of the running ſtream; the light of the ſun; and the vital air of the atmoſphere; exiſtence itſelf, in ſhort, or admiſſion to behold this magnificent ſcene of the univerſe;—compared to which, any or all the comparative ſuperiorities of one man to another diſappear, and are as nothing. Society itſelf is felt, by the happy, as a common bleſſing to all its members; and, like the air they breathe, equally neceſſary to the rich, who would avail themſelves of the labour and ſkill of others, as it is to the poor, who would obtain the reward of their labour.

CHAP. II.

OF THE FUNDAMENTAL LAW OF MORALITY, ITS IMMEDIATE APPLICATIONS AND SANCTIONS.

SECTION I.

Of the Law, or first Principle of Estimation in the Character of Man.

PART II. CHAP. II. SECT. I.

BY separately examining the nature of *good* and *evil*, under the titles of *pleasure* and *pain*, of *beauty* and *deformity*, of *excellence* and *defect*, *virtue* and *vice*, of *happiness* and *misery*; we have endeavoured to arrive at some general conception of what is best for mankind.

PART II. CHAP. II. SECT. I.

These articles we have found to differ chiefly in words, but in matter and subftance to be nearly the fame. The fame qualities of *wifdom*, *goodnefs*, *temperance*, and *fortitude*, which conftitute the excellence of human nature, are conftituents alfo of its beauty and its happinefs. The oppofite qualities of *folly*, *malice*, *debauchery*, and *cowardice*, which conftitute its defect, conftitute alfo its *deformity*, or *turpitude*, and its *mifery*.

The different appellations in queftion have a reference to different afpects, under which the fubject may be confidered. Beauty and deformity have a reference to the qualities of good and evil, in refpect to their firft appearances or afpect. Excellence and defect, virtue and vice, have a reference to their reality in the character. Happinefs and mifery have a reference to the ftate of enjoyment or fuffering, which they conftitute in the mind.

If we fhould endeavour to concentrate this defcription, or reduce this enumeration of qualities, to fome one general principle the moft likely to unite the whole, we fhould be limited in our choice, probably, to one or other of the qualities firft mentioned, in the eftimate of characters; that is, either to *wifdom*, or *goodnefs*.

The other two qualities, whether of *temperance* or *fortitude*, confidered apart, are lefs likely to fecure the whole. *Temperance*, confidered as mere abftinence from improper gratifications, without any pofitive direction of the mind to a better purpofe; or confidered as reftraint from evil, without the formation of a difpofition pofitively good, would conftitute a very imperfect model of excellence or felicity.

Fortitude, confidered as a mere force of mind, without any fpecification of a choice or direction, in which that force fhould be employed, might be exerted equally for a wrong as for a right purpofe ; and courage, prompted by folly might be employed for the deftruction of its owner, like the brutal ftrength of that wreftler * ; who could tear open the cleft of a tree, but who could fuffer himfelf at the fame time, to be caught in it.

The term equivalent to *wifdom*, among the antients, was employed by them to comprehend every article of praife, and enabled them alfo to comprife the laws of morality in the fingle recommendation of this quality. In our tranflation of that term, however, the fenfe is more limited ; and, were we to ftate wifdom as the fundamental principle of morality, we fhould be thought to fubftitute a prudential choice of our interefts for what ought to be matter of affection, and the effufion of a benevolent heart. Mere prudence is an excellence of the underftanding only ; but virtue includes, as a preferable confideration, the energy and direction of an amiable and happy difpofition.

It is well known that, to fecure a proper choice of conduct, on all occafions, good affection or difpofition is not lefs neceffary, than able judgement : Nay, we may be convinced, from experience, that perfons of common underftanding, with fit difpofitions, are lefs apt to err on trying occafions, than the ableft underftanding unfupported by any goodnefs of heart ; or than mere underftanding, warped as we may fuppofe it to be in the defect of good difpofitions, by motives of a different tendency.

If

* Milo of Crotona.

PART II. CHAP. II. SECT. I.

If we are, therefore, to contract our defcription of happinefs, or reduce it to a point, around which the moft valuable qualities of human nature are likely to be collected, we may venture to felect that of goodnefs, or benevolence, as the moft likely to ferve our purpofe; and, by way of principal or fundamental law of moral wifdom, may affume, that the greateft good incident to human nature is the love of mankind.

The different forms or afpects of this difpofition, as it may be exercifed in pity to the diftreffed, or in candour and humanity indifcriminately towards all men; as it may be exercifed in the mutual confidence of friends, or in the love of a citizen to his country, have been already ftated; and although, in this place, its defignation in the mind of a man be taken from his relation to mankind, a title under which are comprehended objects the moft intimate to him, and the leaft likely to be miftaken by him; yet, the difpofition fo characterifed is in reality a fufceptibility of juft affection towards every object, whether of pity, refpect, or veneration; whether the loweft or the higheft that can enter the thoughts of a well difpofed and a happy mind.

The love of mankind, on every arduous occafion is an aid to the judgement, in directing the conduct which a wife man is deftined to hold: In difficult fituations, it is a noble fupport of courage. Even the timorous become bold under the inftigation of a warm or generous affection; the humane, by habits of benevolence, are fecured againft the effect of difpofitions comparatively inferior or mean; and ordinary men, when roufed to feelings of generofity or pity, remain infenfible to the allurements of inferior pleafure, or the fufferings of pain.

Benevolence, therefore, may in ſome degree be conſidered as a principle of wiſdom, of fortitude, and temperance; and, as it either inſpires or requires for its ſupport every other good quality of human nature, we cannot greatly err, in aſſuming it as the fundamental or primary object of moral law. Its external effects, expreſſions, or appearances, are the ſupreme objects of eſteem and complacency; and its reverſe, cruel inſenſibility, and malice, recollected in ourſelves, or obſerved in others, are the ſupreme objects of remorſe, of indignation and hatred.

Hence it is, that the murderer is the common object of deteſtation to himſelf and all men; and without waiting for the conviction of external evidence, is ſo often betrayed by the horrors of remorſe which affect his own mind.

SECTION

SECTION II.

Of the firſt and more general Applications of Moral Law.

PART II. CHAP. II. SECT. II.

THE applications of a phyſical principle are made, either to the formation of theories, and the explanation of phenomena; or to the production of effects, and the practice of arts.

Phyſical ſcience is fruitful of arts, or enables the perſon who is acquainted with the operative laws of nature, to direct its operations to his own purpoſe. Moral principle being a juſt conception or adequate expreſſion of what is good, is fruitful of wiſdom and proper conduct. Its firſt application is to form the temper, to correct falſe apprehenſions of things, to confirm the truth, to cultivate juſt affection, and to direct the energy of a ſtrenuous mind in external actions, and to induce and confirm all the habits of a virtuous life.

There is one point of view in which the ſciences, whether phyſical or moral, unite their effects. That point to which they ſeverally

verally tend, when phyfical fcience becomes comprehenfive of the order of nature, or lays open the view to infinite goodnefs and wifdom; and moral fcience, abftracting from local forms and obfervances, becomes in the mind a principle of extenfive benevolence, by which the individual ftates himfelf as a part in the order of nature, and entirely devoted to the will of its Author.

In thefe points of view, fcience may be confidered as the higheft attainment of created intelligence, and its neareft approach to a communication with the fupreme Creator; an approach, in which, through the medium of knowledge, it receives an impreffion, and contemplates a form of beauty, the moft likely to command its affections.

The diftinctions, which we have been confidering, of *enjoyment* and *fuffering*, of *excellence* and *defect*, of *happinefs* and *mifery*, fubfift in the mind, and may be conceived as properties of mind, abftracted from any external effect or appearance whatever.

At the fame time, as every property of the human mind is a modification of an active animal, as well as of an intelligent being, as it is a meafure of power, or a direction of will, forming the energy of a nature fo mixed, and of which the effects muft appear wherever the living nature is deftined to range or to ply its exertions, we cannot fuppofe the mind to poffefs any quality, whether of excellence or defect, that is not attended with a fuitable confequence in the tranfactions of life.

Hence it is, that the animal and phyfical actions of men prefent an object of moral difcernment, and furnifh fubjects of commendation and cenfure, more obvious to moft men than even the

qualities of mind itſelf, when they attempt to conceive ſuch qualities apart from external expreſſions or effects: And, as men, in ſome inſtances, do not appear to be aſſured even of their own thoughts, until they have put them in words; ſo they are, with much better reaſon, doubtful of what may be the qualifications of any other perſon, until he has given to his thoughts and diſpoſitions their effect in his conduct.

Virtue, therefore, in the mixed nature of man, is at once a condition of his mind, an aſpect and carriage of his perſon, and an ordinary ſeries of action, fitted to his ſituation, as the member of a community, in which the conduct of every particular perſon contributes its ſhare to the good or the evil incident to the whole.

So far the ſubject admits of a general ſtatement, in which there is no difficulty. In the more particular treatment of it, however, ſome difficulties have ariſen, which it may be proper to ſtate, before we enter on the detail of moral obligations and duties.

Theſe difficulties relate to the phenomenon of *moral approbation*, conſidered as a ſubject of theory; or to the different opinions of men, on the ſubject of moral actions and duties, conſidered as a ſtandard of eſtimation for mankind.

Relating to theſe ſubjects, we may enquire, firſt of all, upon what principle men proceed, in eſtimating the morality of actions? Next, Whence the difference of opinion, on the ſubject of moral duties? Whence the real gradations of *merit* and *demerit?* And, from the obſervations that may occur, endeavour to col-

lect ſome fundamental rule or canon of eſtimation, reſpecting the morality of external actions, and the propriety of manners, before we proceed to conſider the variety of ſanctions, under which ſuch actions are required; or before we enter on the ſeparate departments of ſcience, to which the ſtudy of morality refers, under the titles of *juriſprudence*, *caſuiſtry*, and *politics*.

SECTION III.

Of the Difficulty which has ariſen in accounting for Moral Approbation.

PART II. CHAP. II. SECT. III.

IF, according to the reſult of our enquiries on the ſubject of good and evil, what is required as the excellence or virtue of human nature, alſo conſtitute happineſs; and if vice, on the contrary, is to be dreaded as the conſtituent of miſery; there cannot be any doubt of the choice to be made.

But virtue, even to thoſe who are far from conſidering it as happineſs, is ſtill matter of eſteem and reſpect; and vice, even where the vicious are conceived to poſſeſs the good things of this life, is reprobated and condemned: Inſomuch, that virtue is approved even by thoſe who depart from it; and vice is diſapproved even where it is embraced.

This ſentiment, therefore, is of a peculiar nature, not a ſpecimen of mere deſire and averſion, directed to a particular object; but a cenſorial act in the mind of man, having cognizance of a *right* or

a *wrong* in the meaſure or tendency of his own deſires or averſions, even when they have moſt entirely determined his will.

Doctor Clarke, and ſome others, conſidering virtue as the fitneſs of man's character and practice to his own frame, and to his place in the ſyſtem of nature ; and, conſidering reaſon or underſtanding itſelf as competent to obſerve the fitneſs of things, have aſſumed human reaſon as the principle of moral diſcernment.

This ſyſtem is nearly the ſame with that which, making virtue to conſiſt in the conformity of will to truth, makes reaſon alſo the arbiter of right and wrong, as of truth and error.

But theſe ſyſtems have been rejected, as unfit to explain the phenomenon of moral approbation; which, being itſelf an affection or ſentiment of the mind, muſt be derived from a principle to be ſought for among the conſiderations that influence the will, not among the perceptions of mere intelligence, which go no farther than to remark the exiſtence of things.

Upon this ground, men of ſpeculation have had recourſe to various conſiderations of *utility*, private or public ; of *ſympathy*, and of *moral ſenſe* ; to account for the approbation or diſapprobation of actions which they themſelves or others perform.

The inveſtigation and application of any one of theſe principles, joined to the refutation of others, has amounted to treatiſes, and led to diſcuſſions of great length. But the utmoſt that can be done in this place, and in a mere ſummary ſtate of ſo much argument, is to enumerate a few of the principal theories ; and endeavour

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deavour to extricate the mind from the perplexity, which ſo many diſcordant accounts of the ſame ſubject may occaſion.

In the mean time, the *Regulæ Philoſophandi*, or canons of reaſon, as they are preſcribed in other examples of phyſical inveſtigation, muſt be ſuſtained in this *.

I. *We are not to aſſign, as the cauſe of any appearance, what is not itſelf known as a fact in nature.*

Upon this principle, we reject *hypotheſis*, or the mere *ſuppoſition* of a cauſe, of whoſe exiſtence we have not any previous knowledge; as the vortex of Des Cartes is rejected in accounting for the planetary revolutions.

On this rule, it is probable that none of our theoriſts will treſpaſs; for, although ſome have propoſed to account for intelligence itſelf on the ſuppoſition of ſome occult configuration or motion of material atoms, conſtituting reflection and thought; yet, as the mind, when ſo conſtituted, ever acts upon ſome conſideration known to itſelf, it is impoſſible to think of explaining an act of the mind, in any particular inſtance, without recurring to ſome one or other of the conſiderations, on which the mind is generally known to proceed.

II. *We are not to deduce effects from cauſes, which, though real, are unfit to produce the effect.*

In the *connection of cauſe and effect*, in contradiſtinction to a mere fortuitous contiguity of circumſtances, there is ſuppoſed a continual

* Vide Newtoni Principia, lib. iii. ab initio.

continual or inſeparable accompanyment of one with the other. Wherever the cauſe exiſts, there muſt the effect exiſt alſo. And the converſe. They are ever to be found together, and in the ſame proportions.

Upon theſe principles, actual *utility*, whether private or public, will not account for the phenomenon of moral approbation.

For, apart at leaſt from any *private utility*, it muſt be acknowledged that men approve of virtue, as it was exhibited in ſcenes long ſince paſt, and on occaſions in which they could not poſſibly have any private or intereſted concern.

The ſentiment of approbation, therefore, is certainly not proportioned to the private benefit actually received from the action approved, by the perſon who approves.

Utility, as it concerns mankind indiſcriminately, and without any limitation of perſons and times, is certainly more likely to account for this phenomenon.

Virtue is no doubt of a nature to be uſeful to mankind; but if, under the title of *utility*, as is probable, we refer to the external effects of virtue, we ſhall not find moral approbation keep pace with the actual meaſure of benefit mankind received from this or any other cauſe.

There are many examples of great utility, in which no ſubject of moral approbation is conceived. Land is fertile; a tree is fruitful; a ſteer performs much uſeful labour; yet, in theſe there is no ſubject of moral eſteem. The ſuppoſed cauſe, con-

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trary to rule, is found to exiſt in many ſuch inſtances, without producing the effect it is brought to explain.

In anſwer to this objection, it uſed to be admitted, by the author of this ſyſtem, "that moral approbation does not extend to "matters of mere phyſical utility; or is limited to mind, and its "active exertions." This limitation, accordingly, may be admitted: But actual utility, even in affections of mind, does not always amount to a ſubject of moral approbation. What more uſeful in nature, than the diſpoſition of every man to preſerve himſelf; for, on this the ſafety of the whole depends: Yet its moſt reaſonable effects are merely tolerated, ſeldom applauded as virtue, and often reprobated as ſelfiſhneſs and vice.

This effect, alſo, of moral approbation is ſometimes found without the actual utility which is ſuppoſed to be its cauſe.

The mere attempts of a virtuous man to ſerve his friend, or his country, is an object of moral eſteem; not only where he may have failed in his purpoſe, but even where the event may have been calamitous to himſelf, or to others. The perſon, who dies with his friend, in attempting to ſave him; the perſon who ſinks under the ruins of his country, in ſtriving to preſerve it; is no leſs an object of moral approbation, than the moſt ſucceſsful adventurer in either cauſe. And, if ſucceſs, for the moſt part, give luſtre to enterprize, the tender melancholy that ariſes from a tragic event, is well known alſo to enforce the love of virtue, without regard to utility, of which the idea is excluded by the want of ſucceſs.

It appears plain from theſe inſtances, that moral approbation,

though limited to the exertions of mind, yet does not accompany every ufeful exertion; nor even where it applies, does it require any actually ufeful effect. The will alone is fufficient to procure it: This, in other words, is to admit that benevolence, not actual utility, is the object of moral approbation: And, concerning this, moft parties may be agreed. Even Mr Hutchifon, who affumed a moral fenfe, as being a fpecific faculty, required to diftinguifh between moral good and evil, confidered *benevolence*, neverthelefs, as the effence of moral good, or that quality which mankind, by their fenfe of right and wrong, are enabled to diftinguifh as good.

The benevolent will concur, one with another, in every thing that is for the benefit of mankind; but, in accounting for moral approbation, we muft ftill return to the confideration of that peculiar fentiment of eftimation, of which virtue is the object. And the whole muft end in a confeffion, that virtue, of which a principal part is benevolence, is eftimable in itfelf, not merely as the means of obtaining any other end.

If, in the term *utility*, we include whatever is beneficial, or tends to the benefit of mankind, then is virtue itfelf, or its conftituents of *wifdom*, *goodnefs*, *temperance*, and *fortitude*, the greateft good of which human nature is fufceptible: And we only rifk mifleading the mind from its principal object, by fubftituting utility for the more proper expreffion of a bleffing important to the perfon whofe character it is, more than even to thofe on whom any of its external effects are beftowed.

It were prepofterous to exprefs the value of happinefs, by cal-

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ling it uſeful. Or, if a perſon who is happy in himſelf be thereby diſpoſed to be uſeful to others, it were prepoſterous to ſay, that the happineſs of one perſon is valuable only ſo far as it is uſeful to another.

Virtue is, no doubt, ſupremely uſeful, even in the ordinary ſenſe of this term. Juſtice, liberality, and charity, appear in acts of beneficence; and render thoſe who are inclined to practiſe them, the guardians and friends of their fellow creatures. Even what we term acts of prudence, fortitude, or temperance, though ſeeming to terminate in the welfare of the perſon acting, are in fact preſervatives of good order, and contribute to the welfare of mankind. The benevolent man is the more ſerviceable to his fellow creatures, that he is in himſelf prudent, ſober, and intrepid. The oppoſite vices are deſtructive, pernicious, or unſerviceable.

This tendency of virtue has been ſet forth in colours of glowing and ſuperior eloquence *.

The external effects of virtue are acknowledged; but we cannot ſuppoſe that the ſentiment of love, or reſpect, of which virtue is the object, is reſolveable into a mere conſideration of convenience or profit; nor can we overlook its value in conſtituting the worth and felicity of thoſe by whom it is poſſeſſed, for the ſake of a convenience it may procure to others, who, without any merit of their own, may wiſh to derive benefit from the external effects of merit in other men.

Upon

* See Hume's Moral Eſſays.

Upon this principle of utility, the diſtinction of right and wrong appears to be reſolved into a mere difference of tendency, or external effect in the actions of men. In another ingenious attempt to explain the ſame phenomenon, the approbation of virtue is reſolved into *ſympathy*, or what may, for ought we know, be a kind of accidental humour in thoſe who approve or condemn a ſuppoſed virtuous or vicious action.

Sympathy, in common language, is limited to *commiſeration* or *pity*; but, has of late, by men of ſpeculation, been extended to ſentiments of *congratulation* alſo. It may be ſuppoſed either merely inſtinctive, and a contagion of ſentiment, as when without any knowledge of a cauſe, we laugh with thoſe who laugh; become gay with the joyful; or ſad with the melancholy: Or it may be ſuppoſed to proceed from a conception of the occaſion or cauſe, whether joyful, provoking, or melancholy, that is the motive of action, or object of paſſion. And it appears to be in this laſt ſenſe, that *ſympathy is* aſſumed as the principle of moral approbation.

When the obſerver feels, in a certain degree, the paſſion or motive by which another is actuated, upon a ſuppoſition that the ſame thing had happened to himſelf; this participation of ſentiment is ſuppoſed to conſtitute approbation. Thus, when a perſon complains or exults, if the obſerver, upon a ſtate of the caſe, partake in his ſorrow or his joy, it is ſaid, that *he cannot but approve of it.*

If the joy or grief exceed what the obſerver *can go along with*, it is condemned as weakneſs or levity: if it fall ſhort of what the obſerver is diſpoſed to feel, it is condemned as inſenſibility: if

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nearly what he himſelf would feel in a ſimilar caſe, it is eſteemed or reſpected as proper; and ſo on of every other paſſion or ſentiment appearing in the conduct of human life.

It may be difficult, in this account of the matter, to fix where the moral quality reſides; whether in the perſon obſerved, in the obſerver, or in neither ſeparately, but in the mere concurrence of one with another.

This laſt, indeed, or a mutual ſympathy, may imply that the parties are ſatisfied with one another; but, in the ſenſe of all mankind beſides, their agreement may be wrong: And, if the action of one perſon need the ſympathy of another to juſtify it, we are ſtill to enquire in what manner is that ſympathy itſelf evinced to be right.

This theory proceeds upon an aſſumption, that to partake in any paſſion or ſentiment, or to be conſcious that we ourſelves ſhould, in like circumſtances, be ſo affected, is to approve of the motive to action, and to approve of its effects: But it is acknowledged, on all hands, that approbation or diſapprobation is a ſpecific ſentiment, not a ſpecies or degree of any other ſentiment: That it concerns the right or wrong of other paſſions, whether original or ſympathetic, and therefore enabling the mind, on occaſion, to pronounce of ſympathy itſelf, whether it be proper or improper.

If, in judging of this theory, we recur to the maxims of reaſon already cited *, we ſhall find them violated in this, no leſs than in

* Regulæ Philoſophandi Newtoni.

in the aſſumption of utility, for a principle of moral approbation. That is, the effect will be found without the ſuppoſed cauſe and the cauſe will be found without its ſuppoſed effect. In reſpect to acts of uncommon bravery, we admire the more for being conſcious that we ourſelves could not have done ſo much. Although we are conſcious that, in extreme indigence, we ourſelves muſt have aſked for relief, yet we do not admire a beggar. Although we are conſcious that with money we ourſelves ſhould have bought an eſtate, yet we do not admire the purchaſer. Although we ſympathize very feelingly with the admirer of a fine woman, we do not miſtake his paſſion for virtue, any more than we miſtake for generoſity the choice made by him who bought an eſtate. There is ſympathy, as well as utility, without approbation; and there is approbation without either; for we ſometimes have an idea of what we ought to have done, or to have felt, as very different from the part which we actually take in the feelings of other men. And it is remarkable that ſympathy ſhould be then only equivalent to approbation, when we ſympathiſe with the benevolent, the diſintereſted, the courageous, and the juſt.

But, if it ſhould be acknowledged, that, to partake in the ſentiment of another is to approve, and not to partake is to diſapprove of his conduct, it remains, upon this ſyſtem, to be ſtated, by what ſympathy it is that we judge of ourſelves.—

If, by the actual participation of others in our ſentiments and actions;—it ſhould follow, that, in actions concealed from the world, there ſhould be no conſcience of right or wrong; or that, in actions ſubmitted to vulgar judgement, we ſhould be in great danger of error; the multitude is often ill informed, and otherwiſe ill qualified to judge of merit. And this indeed is ſo far acknowledged,

acknowledged, in forming the theory in queſtion, that virtue is not referred to the teſt of actual ſympathy, but to the teſt of a ſympathy, imagined and ſelected in the caſe of a well informed and impartial obſerver.

Here too there is a maſterly tone of expreſſion *; and, if eloquence were the teſt of truth, no want of evidence to obtain belief: But, in this reference to a ſuppoſed well informed and impartial obſerver, there is an implied confeſſion, that there is ſome previous ſtandard of eſtimation, by which to ſelect the judge of our actions; and this ſtandard, by which we are enabled to ſelect an impartial and well informed ſpectator, to whoſe judgement we refer, or by which we are enabled to judge of ſympathy itſelf, as well as of every other action or paſſion, is that principle of moral approbation, of which we are now in ſearch.

This is not merely a queſtion of fact, as in other examples of phyſical theory: For we do not enquire what men actually do in any number of inſtances; but what they ought to do in every inſtance? what is the principle of moral diſcernment on which they may ſafely proceed, whether in judging of others, or in chuſing for themſelves?

Sympathy is no doubt a part in the ſocial nature of man. Individuals mutually beſtow, and delight to receive it; but, like every other natural diſpoſition, it is ſuſceptible of abuſe, and by no means a ſafe or an adequate principle of eſtimation. As the preſumptuous appreciate others by their own ſtandard, the weak and dependent riſe or fall in their own eſteem, according to the value that is put upon them by others; but neither one nor the other, ſurely, ſhould be ſet up as the models of perfection to mankind.

It

* Vide Smith's Theory of Moral Sentiments.

It is difficult to name the power by which man is enabled to diftinguifh between right and wrong, without recurring to the generic appellation of fome of his other faculties, as *fenfe*, *perception*, or *judgement*. This power has accordingly been termed a moral fenfe, or a fenfe of moral good and evil; and the name has led to an hypothefis or fuppofition, that as nature, in the cafe of different animals, has fuperadded to the other principles of fenfitive life, fome peculiar faculty of *feeing*, *fmell*, or *feeling*, as in the lynx's eye, the hound's noftril, or the fpider's touch; as to other qualities of the loadftone, are joined the magnetic polarity and the affinity to iron: So, to the mind of man, over and above the powers cognitive and active, the Maker has given a power judicative, refpecting the merit or demerit of character, and approving or difapproving even the difpofitions, from which the moral conduct proceeds.

Lord Shaftefbury fometimes ufes the term moral fenfe, as expreffive of a confcious difcernment of moral good and evil, but feems to refer to the fact merely without any thought of an hypothefis to account for the phenomenon of moral approbation. It was enough, in his apprehenfion, that the diftinction of moral excellence is real, and that we are by our nature well qualified to perceive it. In this, alfo, the fects of antient philofophy feem to have acquiefced, without requiring any other account of the matter.

If it be underftood, therefore, that difficulties arifing on the queftion of theory, relating to the explanation of the phenomenon of moral approbation, do not amount to any degree of uncertainty in the fact; and, if it be admitted that moral right and wrong are of the moft ferious confequence to mankind; the faculty, by which we perceive the oppofite conditions of men in

this particular, may be known by any name that does not tend to confound the ſubject with others of a different nature.

If *moral ſenſe*, therefore, be no more than a figurative expreſſion, by which to diſtinguiſh the diſcernment of right and wrong, admitting this to be an ultimate fact in the conſtitution of our nature; it may appear nugatory to diſpute about words, or to require any other form of expreſſion than is fit to point out the fact in queſtion. And if this fact, though no way ſuſceptible of explanation or proof, being uniform to a great extent in the operations or nature, is itſelf a law, not a phenomenon; it may no doubt ſerve as a principle of ſcience, to account for appearances that reſult from itſelf, and to direct the practice of arts throughout the departments in which it prevails.

Thus the laws of *motion*, *gravitation*, *coheſion*, *magnetiſm*, *electricity*, *fluidity*, *elaſticity*, and ſo forth, which are not explicable upon any principle previouſly known in nature, are nevertheleſs received as unqueſtionable facts, and with great advantage purſued to their conſequences in the order of things. In this purſuit they furniſh at once a ſecure direction to the practice of arts, and the moſt ſatisfactory account of appearances in the terreſtrial and ſolar ſyſtems.

Men of ſpeculation were ſometimes amuſed with conjectures, reſpecting the cauſe of *gravitation*, and the intimate nature of other *phyſical laws*; but ſcience made little progreſs, while theſe were conſidered as phenomena to be explained, and not as principles of ſcience applicable to explain their diverſified effects throughout the phyſical ſyſtem.

Such, alſo, we may ſuppoſe to be the fate of theory, when employed to explain the law of eſtimation in the mind of man. The exiſtence of this law is known, as the exiſtence of mind itſelf is known, without any thing previouſly underſtood, from which to infer or explain it, or on which to reſt our belief of its truth. Its applications, in our judgement of manners, are no leſs proper than the application of any phyſical law in accounting for its own ſpecific appearances. They enable the moraliſt, in particular inſtances, to aſcertain what is good for mankind; and to form a regular ſyſtem of moral eſtimation and precept, throughout all the ſubdiviſions of *law*, of *manners*, or political *inſtitutions*.

We may, or may not, conceive the power of diſcerning between excellence and defect, as a faculty inherent to intelligent being. To ſuch being, indeed, it appears eſſential to be conſcious of himſelf; and in his attainments, whether actually varied, or only conceived to be variable, it may be eſſential that he conſider unequal degrees of *excellence* and *defect*, as meaſures of the *good* or the *evil* of which he himſelf is ſuſceptible. Created intelligence may advance in the uſe of this diſcerning faculty, and have a continued approach to the model of divine wiſdom; a termination from which its diſtance may diminiſh, but at which it never can arrive.

The eſſence of almighty God we muſt conceive to be moſt *ſimple*; being that which neceſſarily exiſts from eternity Of his ſupreme intelligence, we have full evidence in the ſyſtem of nature; and of his diſtinguiſhing the oppoſite conditions of moral good and evil, there is equally irreſiſtible proof.

The diſtinction of excellence and defect originates in the unequal

 conditions

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conditions of mind, and the difcernment of fuch condition is not only peculiar, but neceffary alfo to the courfe which created beings of this order are deftined to run. Hunger and thirft, or any other incitement to felf prefervation, is not more effential to the animal frame, than the preference of what is perfect, to what is defective, is to the conftitution of mind: It is a prefervative of reafon, a main fpring of exertion, and a princple of advancement, in the track of intelligent nature.

Hence it is that numbers of men, who are far from conceiving virtue as the conftituent of happinefs, neverthelefs confider it as the conftituent of excellence and perfection, which they behold with refpect and efteem.

Man alone in this animal kingdom, for ought we know, apprehends the gradation of excellence in the fcale of being; and, though all men are agreed upon the reality of a comparative eminence, in the afcending fteps of this fcale, it may be difficult to affign the principle of eftimation, fo as to juftify the preference which is given to one order of being above another. Mr Buffon afcribes this preference to the greater number of relations, which certain orders of being bear to the fyftem of nature around them *. " In the multitude of things " prefented

* Dans la foule d' objets que nous prefente ce vafte globe dont nous venons de faire la defcription, dans le nombre infini des differentes productions, dont fa furface eft couverte et peuplie, les animaux tiennent le premier rang, tant par la conformité qu' ils ont avec nous, que par la fuperiorité que nous leur connoiffons fur les etres vegitans ou inanimes. Les animaux ont par leurs fens, par leur forme, par leur movement, beaucoup plus de rapports avec les chofes que les environnent, que n' en ont les vegetaux; ceux-ci par leur developpement et par leur differentes parties, ont auffi une plus grand nombre de rapports avec les objets exterieurs, que n' en ont les mineraux ou les pierres, que n' ont aucune forte de vie ou de movement, et c'eft par ce plus grand nombre de rapports que l' animal eft reellement au deffus du vegetal, et le vegetal

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" presented on this globe ; in the infinite number of different " productions, with which its surface is covered or peopled, the " animals," he observes, " occupy the first or the highest rank, " whether by their resemblance to us, or by the superiority " which we perceive in them, to the vegetable or inanimate na- " tures. The animals, by their make and by their sensitive and " moving powers, have many more relations to the subjects a- " round, than the vegetables have. These, in their turn, by the " unfolding of their parts ; by their figure, their organization, " and growth, have many more relations than the minerals, or " any mere lifeless mass of matter. And it is by virtue of this " greater number of relations, that the animal is superior to the " vegetable ; and the vegetable is superior the mineral. Even we " ourselves, considered in respect to the material part of our " frame, are not otherwise superior to the animals, than by a " few relations more, such as accrue to us from the use of the " hand and the tongue ; and, though all the works of God are " in themselves equally perfect, yet, in our way of conceiving " them, the animal is most compleat ; and man the master-piece " of all."

This is, perhaps, the first attempt that ever was made to give a reason why animals are reckoned of a higher order than plants, and these of a higher order than minerals or unorganized matter of any sort. And though no one disputes this order of things, yet this attempt to explain it will scarcely appear satisfactory. Many will

vegetal au dessus du mineral. Nous meme, a ne considerer que la partie materielle de notre etre, nous ne sommes audessus des animaux que par quelques rapports de plus, tels que ceux que nous donnent la langue et la main ; et quoique les ouvrages du Createur sont en eux-memes tous egalement parfaits, l' animal est, selon notre façon d' apercevoir, l'ouvrage le plus complet de la nature, e l'homme en est le chef d' ouvre.

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will be ready to aſk, why eſtimation ſhould keep pace with the number of relations, which a ſubject bears to other parts of the world around. One relation, compleatly and beneficently adjuſted, may be preferable to many. And, if a beneficent purpoſe can be obtained by one relation, however ſimple, the multiplication muſt appear rather a defect than a beauty. It appears, indeed, that where a number and variety of expedients or relations are wanting to obtain a purpoſe, the diſpoſition and ability to combine ſuch a variety to one common beneficent end, is a great perfection in the power by whom ſuch arrangement is made. When man has formed to himſelf any number of relations to the ſubjects around him, ſuch as he bears to the field he has cultivated, the city he has built, the work of any kind he has performed, the law or inſtitution he has adopted; in ſuch relations, indeed, the ſuperiority of his own nature appears: But, in what his Maker has done for him, or for the other animals; in what is done for plants and minerals, it is the majeſty of God that we revere; and the relations of things merely inanimate ſerve only as the ſteps, by which we are led to contemplate the wiſdom and goodneſs of the firſt cauſe.

In this ſenſe, we already obſerved, beauty and excellence are aſcribed to material ſubjects. And the inequality of rank which appears ſo real in the ſyſtem of things, is a mere gradation of the luſtre or effect, with which intelligence, or its principal features of goodneſs and wiſdom, are made to appear in the different orders of being. The eloquent naturaliſt, cited above, ſeems to drop his arithmetic of relations, when he conſiders the pre-eminence of intelligent forms: in the ſyſtem of nature. For he applies it only to the material part of man; and, in reality, mere number of relations could ill account for the ſuperiority of any nature whatever; as the relation between any

two ſpecies of being muſt be mutual, and in point of number at leaſt the ſame; for ſo many relations as man has to the ſyſtem of nature around him ſo many preciſely muſt the ſyſtem of nature have to him. But no one ever queſtioned the pre-eminence of intelligent being; ever required an account to be given of it; or deſired to know by what faculty it is perceived. Dimenſions are meaſured by ſome ſtandard quantity of the ſame dimenſion; length, by ſome ſtandard meaſure of length; and ſolid content, by ſome ſtandard meaſure of ſolid dimenſion; and why not intelligence, alſo, by ſome ſtandard conception of intelligent nature. The degrees to be eſtimated conſiſt in variable meaſures of wiſdom and goodneſs; and whoever has an idea of theſe, will judge accordingly of the ſpecimens that approach to the ſtandard, or of the defects that come ſhort of it.

Some who have carried the analogy of animal ſenſe and perception into this ſubject, have ſtarted a queſtion, whether moral excellence be not a ſecondary quality; that is, like the perception of ſmell, ſound, or taſte, if it may not proceed from a cauſe in nature very different from that we conceive *? But in the eſteem of wiſdom and goodneſs, there is not any danger that the quality we conceive is different from the quality that exiſts, as our conception of ſound is different from a tremor in the particles of air: for it is the very exiſting thing itſelf of which we have a conception, taken indeed from feeble, occaſional, and paſſing ſpecimens, but eaſily abſtracted by us from their defects and imperfections, to ſerve as a ſtandard of eſtimation for what we propoſe as the model of excellence, wherever our judgement applies or wherever a choice is to be made.

If

* Vide Lord Kames' Moral Eſſays.

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If we are aſked, therefore, what is the principle of moral approbation in the human mind, we may anſwer, It is the *Idea* of *perfection* or excellence, which the intelligent and aſſociated being forms to himſelf; and to which he refers in every ſentiment of eſteem or contempt, and in every expreſſion of commendation or cenſure.

Nay, but mankind are not agreed on this ſubject; they differ no leſs in what they admire, than in what they enjoy. The idea of pefection no doubt may be aſſociated with ſubjects diveſted of merit: But notwithſtanding the effect of ſuch aſſociation in warping the judgement, virtue is approved as the ſpecific perfection or excellence of man's nature; and as no one ever inquired why perfection ſhould be eſteemed; it is difficult to conceive why they ſhould look for any other account of moral approbation than this.

From the predilections of birth and fortune, few, if any, are altogether blind to the diſtinctions of wiſdom and folly, of benevolence and malice, of ſobriety and debauchery, of courage and cowardice. And if theſe characters of mind could be perceived without the intervention of external ſigns; the difference of judgement on the ſubjects of moral good and evil would, in a great meaſure diſſappear; or there would not be ſo much diverſity of opinion as we obſerve amongſt men, concerning the forms or deſcription of virtue. But the external actions which may reſult from any given diſpoſition of mind being different in different inſtances, may occaſion a difference of judgement, or a variety of cuſtom and manners; and ſuggeſt the neceſſity of a principle or ſtandard of eſtimation, on which their rate of merit or demerit may be ſafely eſtabliſhed. We accordingly proceed to the conſideration of theſe particulars.

SECTION IV.

Of the Difficulty of reconciling the different Judgements of Men relating to the Morality of External Actions.

WHEN the reality of any moral diſtinction is queſtioned, we naturally refer to the general ſenſe of mankind on the ſubject. To give this evidence, however, its full effect, in ſupporting the reality in queſtion, it is ſuppoſed, that mankind ought to be unanimous in their verdict, and agree, not only in admitting, that there is a diſtinction, but agree alſo in the deſcription of ſubjects, or in the choice of particulars, to be ranged under the oppoſite predicaments of moral good and moral evil.

If men, it may be alleged, have a diſpoſition to ſelect objects of commmendation and cenſure, and yet are not agreed in their choice, we muſt ſuppoſe their difference of judgement to ariſe, not from a want of diſpoſition in them to find out the truth, but from the want of a ſufficient difference in the nature of things to lead or to eſtabliſh their judgement.

Sceptics

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Sceptics, accordingly, in order to repel the evidence of reality in matters of moral diſtinction, refer to the contradictory notions of mankind, on the ſubject of manners.

"Mankind," they obſerve, "blame in one perſon, and in one "caſe, what they applaud in another. Thus, to deceive or to "kill is in one inſtance condemned, in another is applauded or "permitted. What is held forth as a ſubject of praiſe in one age "or country, is overlooked or neglected in another. What, in "one age or nation, is permitted as allowable or innocent, in an-"other is reprobated and abhorred, under ſome denomination "of impiety, inceſt, or blaſphemy *.

"Certain forms of behaviour, forms of expreſſion or geſture, "are in one country, or amongſt one ſet of men, required to "good manners, or received with complacency; whilſt they are "conſidered as an unpardonable injury or inſult in other na-"tions, or in other companies.

"In one nation, we are told, it is reckoned an act of filial piety "for a ſon to kill his ſuperannuated parent; in other countries, "this, though we ſhould ſuppoſe it to be done with conſent of the "perſon ſuffering, would be deteſted as a moſt horrid inſtance "of murder and parricide.

"The definitions of crimes vary in the laws of different coun-"tries: Inſomuch, that what is deſtined to ſevere puniſhment in "one

* Profana illic omnia, quæ apud nos ſacra; rurſum conceſſa apud illos, quæ nobis inceſta.

Tacitus de Judæis, Hiſt. lib. v. c. 4.

" one country, is ſuffered, in another, to eſcape with impunity, even " without cenſure. Thus, theft, which was puniſhed at Athens, " was encouraged in Sparta.

" All men are loud in commendations of virtue; but obſerve " their applications of this term, how different in the detail of " particulars? Among the antient Romans it meant valour a-" lone. Among the Jews it meant zeal for their own inſtitutions, " and animoſity to the reſt of mankind. Among houſewives it " means œconomy and notable induſtry. In Italy it means a " taſte for antiquities, and curioſities of nature or art."

From the whole of theſe inſtances it is propoſed to infer, that there is not any certain rule of approbation or diſapprobation reſpecting the manners or behaviour of men. And notwithſtanding the eſſential felicity and merit of wiſdom and goodneſs as qualities of intelligent being, it muſt be allowed to follow from ſuch varieties of apprehenſion, reſpecting the morality of external action, that the diſtinction of right and wrong cannot be taken from the mere phyſical action itſelf, or that mere external movements of the body have not the ſame power to command our moral feelings, as they have to command our perception of their form and phyſical effect.

When the ſhutters of a window are opened, and the light is admitted, every object in the room is illuminated; viſion is diſtinct to all who have organs of ſight, and the perceptions of magnitude, figure, and colour are the ſame to every one preſent. When certain tremors are produced in the air, every ear is ſtruck with the ſenſation of ſound; and however one perſon may differ from another in his conjectures reſpecting its cauſe, or even re-

ſpecting the muſical effect, the tone produced is the ſame to every one by whom it is heard.

The ſame thing may be ſaid with relation to the form and conſequence of any action or movement of the body. All who are preſent perceive the ſame phyſical operation, and the ſame continuance or change of condition in the ſubject affected by ſuch operation. A life may be taken away or preſerved in their ſight, and there is no difference of perception reſpecting the phyſical cauſe or the phyſical conſequence. May we not preſume, therefore, that if moral right and wrong were equally a part in the form of an action, as is the phyſical deſcription of it, the perceptions of men in this reſpect alſo would be equally uniform.

The contrary, however, is obſerved to be true. The ſame phyſical action in one inſtance is applauded as a virtue, in another inſtance is reprobated as a crime; or rather, to ſpeak with more propriety, where the phyſical action is the ſame, the moral action is altogether different; and is an object of approbation or diſapprobation, correſponding to that difference of the moral quality.

For an example, in which the phyſical action may, in repeated inſtances, continue the ſame, while the moral action is extremely different; we may ſuppoſe the death of a man, effected with a ſword, in the manner in which executions in ſome countries are performed; in which aſſaſſinations are committed; and battles are fought. In all theſe inſtances the phyſical action may be preciſely the ſame, and every ſpectator have the ſame perception of it; but the moral action may be, and frequently is, extremely different.

To

To deviſe the death of a man is criminal in the *robber*, who, to ſtrip the traveller of his property, attacks him on the high way. It is criminal in the *aſſaſſin*, who, from jealouſy, revenge or malice prepenſe in any other form, lays a ſnare for the life of his neighbour. But in a perſon who *defends* himſelf, in a *judge* who has condemned a criminal, or in the officer who conducts the execution of a *juſt ſentence*, the ſame phyſical action may be *innocent*; may be the diſcharge of a *duty*, or an act of *public juſtice*. In a ſoldier, who, at the hazard of his own life, kills the enemy of his country, the material effect produced is preciſely the ſame, with that which is criminal in the aſſaſſin or in the robber. But the moral action in theſe inſtances is extremely different: In the firſt it is eſteemed as of the *higheſt merit*, in the others it is condemned as of the moſt *atrocious guilt*.

Under this ſeeming difference of judgement reſpecting the ſame action, there is actually no more difference reſpecting the moral apprehenſion than there is reſpecting the phyſical effect. While every one perceives that a man is killed, every one perceives alſo that the aſſaſſin or the robber did wrong in killing him; that the ſoldier acting in defence of his country, or the officer of juſtice in execution of a legal ſentence, did right. In the aſſaſſin or robber this phyſical act was an act of malice or rapacity; in the judge, magiſtrate, or ſoldier, it was an act of public juſtice or heroic valour: And mankind, we may repeat, are as little at variance with reſpect to the moral quality of the action in either caſe, as they are with reſpect to the mere form or deſcription of the phyſical operation.

We are familiar with this diſtinction between the phyſical and

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the moral action, under a variation of circumftances which diverfify the cafe: And though the difference of judgement is more ftriking in fuch inftances than it is in any other; yet no one thinks himfelf authorifed from thence to queftion the reality of moral diftinctions. There are indeed no fpecimens of moral good and evil more ftriking than thofe which are prefented by the fame phyfical action, performed by different perfons and in different circumftances; from the motives of benevolence and duty, on the one hand, or of malice and depravity on the other.

Every one is aware of the different judgements to be given where the cafes are different; and to give the variety of judgement an appearance of contradiction in the eftimate of moral good and evil, we muft have recourfe to examples lefs familiar and in which we are lefs qualified to diftinguifh the moral from the phyfical qualities of an action. We are at a lofs, for inftance, when we are told, that what is punifhed as a crime in one country is rewarded or commended as a duty in another; becaufe we are not qualified to perceive in what manner the moral action, under a different fet of manners from our own, fhould be differently *underftood*, or in what manner the fame moral action fhould refult from phyfical performances extremely different.

This defect, however, may be eafily fupplied, if we confider, firft of all, that men have different opinions refpecting external objects, and in one country value that as an honour or a benefit, which in another is rejected as pernicious, or as an infult: Farther, that many of the actions of men are confidered more as *expreffions* of what they mean or intend, than as operations materially beneficial or hurtful. In the firft inftance, men proceed upon

on different notions of what is beneficial or hurtful. In the other they exprefs or interpret their intentions differently. PART II. CHAP. I. SECT. IV.

In fome countries honour is affociated with fuffering, and it is reckoned a favour to kill, rather with circumftances of torture than otherwife. This is confirmed in our account of the manners of fome American nations; and in the fortitude with which an Indian matron fubmits to extreme fuffering by fire on the funeral pile of her deceafed hufband. She courts the flames, with a zeal and enthufiafm more ardent than that with which fhe reforts to the bridal bed, or fhould mount the throne of ftate in a terreftrial kingdom. Whatever conceptions mankind may have formed of external objects and circumftances, as matters of defire or averfion, it is natural for the benevolent to do what he himfelf and the world around him conceive as a benefit, and to avoid doing to others what they, or he himfelf, conceives as harm or an infult: And as it is a maxim in law "Volenti non fit injuria"; fo it is naturally apprehended, under a variety of opinions refpecting external objects, that it is beneficent to treat every perfon in the manner which he himfelf conceives to be beneficial or kind.

The fafety and the juftice of this maxim, refpecting matters of a certain confequence to the welfare of mankind, may no doubt be queftioned; and errors of choice, where they do not proceed from malice may be imputed to folly; but the rule that every one is to be ferved or obliged in his own way, ought not to be queftioned refpecting matters of indifference, or of fmall moment. Thefe are varioufly employed by nations, as the figns or expreffions of good or ill difpofition; in the fame manner as, in the ufe of language, words,

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words, or articulate ſounds, are adopted as the ſigns or expreſſions of meaning, intention, or will.

Of this ſort, no doubt, is much of the form and ceremonial of common life. It is the form of reſpect in Europe to uncover the head: In Japan, we are told, the correſponding form is to drop the ſlipper, or to uncover the foot. The phyſical action in theſe inſtances is different, but the moral action is the ſame. It is an act of attention and reſpect; diſpoſitions equally acceptable, whether expreſſed in words, geſtures, or ſigns of any other ſort.

Perſons, unacquainted with any language but their own, are apt to think the words they uſe, natural and fixt expreſſions of things; while the words of a different language they conſider as mere jargon, or the reſult of caprice. In the ſame manner, forms of behaviour, different from their own, appear offenſive and irrational, or a perverſe ſubſtitution of abſurd for reaſonable manners.

To the ignorant or to the proud, who conſider their own cuſtoms as a ſtandard for mankind, every deviation from that ſtandard is conſidered, not as the uſe of a different language and form of expreſſion, but as a defect of reaſon, and a deviation from propriety and correctneſs of manners.

Among the varieties of this ſort we find actions, geſtures, and forms of expreſſion, in their own nature indifferent, entered into the code of civil or religious duties, and enforced under the ſtrongeſt ſanctions of public cenſure or eſteem, or under the ſtrongeſt denunciations of divine indignation or favour.

 Numberleſs

Numberlefs ceremonies and obfervances are adopted in the ritual of different fects, for the fame reafon that words are adopted in the vocabulary of different languages, though with a different effect on the minds of ordinary men.

In religion, the rite is fuppofed to be prefcribed by the fame authority to which the forms of devotion are addreffed. The neglect of it is fuppofed to conftitute offence before that tribunal whofe condemnation is fatal. The fubftitution of any other rite is fuppofed to be profane, or an unpardonable infult to the object of worfhip. Under thefe apprehenfions, arbitrary figns of devotion are fuppofed effential to religion; and deviations from the eftablifhed practice, or any variation in the ufe of fuch figns, is purfued with that vengeance which the zealot thinks neceffary to recommend him to God.

In many examples of this fort; as in the ufe of different languages, the people have not a different meaning, but merely a difference of the founds in which their meaning is expreffed; fo in the rites of devotion or worfhip, they admit a variety, not of the fentiment but of the external performance, which they employ as a fign or expreffion. And if in the different forms and ceremonies, which they practife, in their own nature indifferent or innocent, they equally mean to acknowledge and to adore the intelligent power and moral government of God; the zeal with which they condemn and perfecute one another, on account of fuch difference of forms and ceremonies, is no way more rational, than it would be to fofter national animofity on the fcore of a different language or accent of fpeech.

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This uſe of external action, as a ſign for the purpoſe of mere expreſſion, is not confined to obſervances in their own nature altogether indifferent: Men freely incur phyſical inconvenience for the ſake of ſuppoſed moral good; and actions, in their phyſical tendency actually pernicious or uſeful, are often more conſidered in reſpect to the meaning and intention of thoſe who perform them, than in reſpect to the actual benefit or harm, which they are ſuppoſed to produce. A kind intention, made known in any trivial matter, operates more powerfully on the affections, than gifts of the greateſt moment, beſtowed in a manner leſs gracious, or leſs expreſſive of kindneſs.

Injuries are not always meaſured by the actual harm which is done, nor malicious intention inferred in the higheſt degree, from the nature of the weapon with which a perſon is aſſaulted. A gentleman in modern Europe, as we have formerly obſerved, is more offended with the ſtroke or threat of a ſtick, than with the wound of a ſword.

Theſe are no more than inſtances of the power of opinion, and habits of thinking, by which things, in their own nature agreeable or diſagreeable, are aſſociated in the ſame conception with feelings and qualities of the mind with which they have not any neceſſary or original connection.

From the whole of theſe obſervations, then, we may conclude, that, without any variation in the ideas of *excellence* and defect, men may vary in their judgement of external actions. A different perſon, or the ſame perſon in different circumſtances, may act differently, and in this there is nothing to unſettle the judgement

ment of moral *right* and *wrong*. Different opinions relating to external effects, whether ſuppoſed beneficial or hurtful, may lead men, with the ſame candid or malicious intention, to act and to judge very differently. Any action, that is conſidered merely or chiefly as an expreſſion of will or meaning, may be differently underſtood in the form of different countries; and in none of theſe inſtances is there implied any difference of apprehenſion relating to the intimate nature of moral *good* and *evil*. The firſt may be termed a difference of the *caſe*; the ſecond a difference of *opinion*; and the third a *difference* of *interpretation*.

What is obſerved of a difference in the laws of different countries, or in the terms of a different language, will be equally found not to affect the original or the eſſential diſtinction of moral right and wrong.

We are not to expect, that the laws of any country are to be framed as ſo many leſſons of morality, to inſtruct the citizen how he may act the part of a virtuous man. Laws, whether civil or political, are expedients of policy to adjuſt the pretenſions of parties, and to ſecure the peace of ſociety. The expedient is accommodated to ſpecial circumſtances, and calculated to repreſs the ſpecific diſorders peculiarly incident to particular ſituations.

The higher duties of morality, beneficence, and fortitude can ſeldom if ever be made the ſubject of law. The vileſt of moral depravities, envy, and malice, can only be reſtrained from a few of their overt or moſt flagrant effects. The law muſt be contented to reſtrain ſuch open and flagrant diſorders; and, where the people are prone to any particular ſpecies of irregularity, the law may be

 ſpecially

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ſpecially directed to reform it, or even with greater ſeverity puniſh, the firſt approach to ſuch irregularities, and treat ſuch approaches as a greater crime than even the perpetration of greater evils, to which the people are leſs diſpoſed, and from which the public therefore has leſs to apprehend.

In ſome of the ſmaller ſtates of Italy, where family feuds and quarrels ſo often prevailed, it was made capital, we are told, to ſhed a ſingle drop of blood in the ſtreets. Where frauds committed on the revenue are more frequent, and more to be apprehended than private robberies, the law naturally directs its ſeverity to the quarter from which the public intereſt is moſt deeply annoyed. And its enactments are to be conſidered, not as inſtructions of morality, but as the convention of parties particularly ſituated, and mutually engaged to ſupport the cauſe of a community, depending on circumſtances peculiar to their own ſituation.

If the law, in this manner is to be conſidered as a local expedient provided for the welfare and peace of communities; the language of the people, we may believe, is not always calculated to expreſs the mere abſtract diſtinctions of right and wrong; but to diſcriminate virtue and vice under ſuch diverſities of external form, as they moſt frequently take in particular circumſtances, and under ſpecific ſyſtems of manners. Fortitude is made to expreſs not mere ſtrength of mind in the abſtract; but has a reference, at the ſame time, to the particular and more ordinary form in which there is occaſion to exerciſe this virtue; whether in heroic patience or military valour. Goodneſs is not employed to expreſs benevolence in the abſtract, but has a reference to the form in which there is the moſt frequent occaſion to practiſe beneficence,

whether in charity to the poor, and in relieving the diftreffed; or in acts of public fervice, and private humanity or candour. PART II. CHAP. II. SECT. IV.

In every language there is a multiplicity of terms in which general praife and blame are expreffed; but of fuch terms it is obferved, that no two are fynonymous. There is implied in every term of praife a complication of circumftances. In fome principal parts of the combination the terms agree, but in fome other part, perhaps, in fome minute circumftance of the occafion on which the good qualities are difplayed, or of the effect they produce, the meaning of the term is, in fome degree, diverfified, fo that any one of the terms fo diftinguifhed cannot, with propriety, be fubftituted one for another. Honefty cannot be fubftituted for probity, however nearly approaching in their meaning; nor is goodnefs with propriety fubftituted for either.

In the general appellation of a good man, befide the more important conditions of humanity, faithfulnefs, and beneficence, which recommend one man to another, there is, in particular fituations, fome reference to particular circumftances, to which perfons in thofe fituations have peculiar occafion to attend; as, among merchants, the qualities of punctuality and regard to credit, which mutually recommend the parties in their dealings with one another; in literary focieties, learning and genius; in national councils, and public affemblies, mafterly judgement, and powerful expreffion; in warlike nations, manhood and military valour; and men, in all thefe different inftances, beftow the general term of praife, with a particular implication of the circumftance peculiarly required in their own condition.

Words derived from the fame ftock, and paffing into diffe-

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rent languages, thus aſſume, in ſome particular reſpects, a different meaning in the application made of them by different nations. As from the *honeſtum* of the Romans, is derived the *honeſty* of the Engliſh, and the *honetteté* of the French; but whoever ſhould tranſlate the one into the other, would loſe the meaning of his original, and ſubſtitute different circumſtances of commendation, in paſſing from one language to another; not becauſe theſe nations have different ideas of what is commendable; but becauſe they have come to expreſs different articles of commendation in a term of the ſame origin.

What is commended by one nation in any given term of praiſe, is commended by another in a different one; and they diſagree in the uſe of words, not in conceiving the diſtinctions of right and wrong; for each is ready to acknowledge the value of what the other commends, as ſoon as he underſtands the meaning of the word in which it is commended.

SECTION

SECTION V.

Of the Fundamental Rules of Morality relating to External Actions.

THE firſt law of morality, relating to the mind and its affections, requires the love of mankind as the greateſt good to which human nature is competent: If it ſhould appear that mankind are not agreed in the deſcription of external actions that flow from this principle, nor in the choice of favours to be expected from the beneficent, it may be aſked, by what rule is the friend of mankind to conduct himſelf? What is the harm from which he is to abſtain, and what the good office which he is to perform to his fellow creature? PART II. CHAP. II. SECT. V.

To this queſtion we may anſwer, in general, that, notwithſtanding the varieties of manners, in different ages and nations, and the different interpretation of favours or offences, which, in the ſtile of declamation, may be made to appear ſo formidable and ſo perplexing, in the choice of virtuous actions; yet, that mankind in reality do not ſo far miſtake the pernicious for the uſeful,

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uſeful, nor the deſtructive for what tends to their preſervation, as that the beneficent needs to be at a loſs, in determininig what is in him a natural effect of benevolence or of good will to his fellow creatures. In every particular ſociety, theſe points are ſettled; and few have occaſion to transfer their beneficence from one ſcene to another, in which the conſtituents of a benefit are differently conceived or differently underſtood.

Notwithſtanding the diverſity of opinions which men may be ſuppoſed to entertain, with reſpect to the morality of particular actions, yet, in every age and nation, in every rank and condition of men, there is a rule of propriety, which, though it may be different in different inſtances, is to each the canon of eſtimation, and the principle from which they are to judge. Admitting ſuch differences, then, as they affect particular articles of propriety, this may be laid down as a law of external action for mankind;—That, in matters phyſically indifferent or of ſmall moment, men are to obſerve the rules eſtabliſhed in their own country or in their own condition; as they ſpeak its language and wear its dreſs: That, in judging of behaviour, in other countries, or in other ſituations, they are not to eſtimate proprieties of conduct by the ſtandard of their own manners or cuſtoms; but, to allow every nation the free and diſtinctive uſe of its own.

This rule applies chiefly, if not wholly, to matters of propriety, decency, and common civility; with reſpect to which, it is obvious, that as the object is to do what is inoffenſive, what is agreeable or obliging, it is proper that the perſon, acting in matters phyſically indifferent or of ſmall moment, ſhould conſult the opinions of thoſe he would oblige rather than his own.

Even,

Even, in matters not altogether phyfically indifferent, and in refpect to which unequal degrees of conveniency or inconveniency may be apprehended in the practice of different nations; it would be an error in point of propriety if any one fhould deviate from the manners of his own country, under pretence that he meant to fubftitute what he thought an improvement. He might, in the fame manner, apprehend, that the language of his own country were inferior to that of a neighbour, or the fafhion of its drefs lefs convenient; but, any extreme or fingular affectation of thus deviating from what is common in fuch matters, under the notion of exhibiting fomewhat fuperior, is ever ftigmatized, or is confidered as the mark of a fool or a coxcomb.

Where nations, or different ranks and conditions of men, vary from one another in fuch immaterial forms and obfervances, they are faid to differ in point of manners; and, as they are feverally to be judged of by the ftandard of their own cuftom or practice, none has a right to apply that ftandard, in eftimating the manners of others. This rule may be applied, not only to matters purely arbitrary, like the forms of falute, or the titles of addrefs, but even to all thofe matters, to which men though not originally indifferent, are in effect by cuftom or habit, reconcileable, or attached. Though to others from an oppofite cuftom and habit, fuch examples may appear awkward or abfurd, it is not to be expected of perfons in any particular age, nation or rank, that they fhould have any apprehenfion in fuch matters different from that of their own nation, condition, or age.

Men of all ages and nations however have been generally dif-
pofed

PART II.
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SECT. V.

posed to trespass on this rule, and to judge of other men by the standard of their own manners and customs. This error is equally the concomitant of ignorance and of national pride, and few are qualified to distinguish what is essential in the character of nations from what is an article of variable institution or custom, and though supposed erroneous, yet consistent with the noblest qualities of the mind. Homer sung of great men, who performed for themselves the functions of butcher and cook, and who served up the mess on which their guests and themselves were to feed: He is therefore said by a late celebrated wit, to have sung of coarse or inelegant heroes*: But the manners of men are variable in different ages; and the same virtues and vices, the same elevation or meanness, may be exhibited under this or any other variety of manners. The moral of Homer has accordingly been equally admired by those who could hire butlers and cooks to serve them, as by others who themselves dressed and served up their own provisions. In this matter the Roman critic appears to have differed from the French one.

Trojani belli scriptorem, maxime Lolli,
Dum tu declamas Romæ, Præneste relegi;
Qui quid sit pulchrum, quid turpe, quid utile, quid non,
Plenius ac melius Chrysippo et Crantore dicit.

This latitude of judgement, however, relating to the variety of manners, which may be admitted, as consistent with equal or superior degrees of merit in different nations, hath limits beyond which it cannot be safely carried. Should we suppose a nation to reject what is evidently salutary, and to prefer a custom which

* "D' avoir chanté des heros grossiers." This expression is to be found somewhere in Voltaire's Works.

which is pernicious; this, no doubt, would come under the denomination of abſurdity and folly, rather than a mere variety of manners: It would furniſh other nations with a ſubject of juſt ridicule or cenſure, and juſtify the individual, when better informed, in counteracting the practice of his own age or country. The virtuous citizen in ſuch inſtances ſtrives to preſerve his country, although the practice in faſhion ſhould tend to its ruin.

Virtue is ſo far from being valuable, merely on account of its external effects, that the greateſt and moſt beneficial effect it can produce is the communication and propagation of virtue itſelf; "You will ſerve your country more," ſays Epictetus, "by raiſing "the ſouls, than by enlarging the habitations of your fellow citi"zens." And this is the greateſt benefit which any man can receive from his virtuous neighbour, that he become, like him, wiſe, courageous, temperate, beneficent, and juſt.

Faſhion ſometimes leads to effeminacy, ſervility, prodigality, and debauchery. Where nations differ from one another in theſe reſpects, they are juſtly ſaid to exhibit, not a difference of manners merely, but certain degrees of corruption and depravity. If they ſhould be ignorant or inſenſible of the pernicious tendency of what they do, even this ignorance or inſenſibility is a heavy article in the charge of corruption or vice to which they are expoſed, and it muſt be admitted, that the ſingularity of an individual, which in any inſtance of mere arbitrary manners were an error and a blemiſh, would in ſuch inſtances as theſe be a merit and a juſt topic of praiſe. *Among the faithleſs faithful only he*, is made the diſtinction of an angel of light *.

It muſt no doubt therefore be eſtabliſhed as a rule of action, that

* See Paradiſe Loſt.

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that wherever the manners of our country are dangerous to its ſafety or have a tendency to enfeeble or to corrupt the minds of men; to deprive the citizen of his rights; or the innocent of his ſecurity; it is our duty to do what is for the good of our fellow creatures, even in oppoſition to the faſhion and cuſtom of the times in which we live.

Some rites in religion, as well as obſervances in the ceremonial of life, are of a nature phyſically indifferent, and fit to be retained as mere arbitrary ſigns or expreſſions of the affection, which religion or good manners require. But, as there is a merit in reſiſting practices extremely inconvenient, though required under the notion of good manners; ſo there is wiſdom in abſtaining from acts of cruelty, though required under the notion of devotion or ſanctity.

The human ſacrifice performed, or the cruel perſecutions that have been practiced under this notion, did not proceed, like the voluntary ſufferings of the enthuſiaſt, upon an idea, that it was good for himſelf to ſuffer; but upon an idea, that the Deity who requires ſuch victims is jealous, vindictive, and cruel; or is to be gratified with the infliction of human miſery: And ſuch practices, therefore, are to be counteracted, not merely as a miſtake of what is beneficial or ſalutary, but as a corruption of religion itſelf; and as a ſubſtitution of malice or cruelty, where the mind ſhould be taught only to form to itſelf models of perfection and goodneſs, as incitements to veneration and love.

SECTION

SECTION VI.

Of the same Subject, continued.

IT is observable that, in many things, whether useful or necessary there is a certain measure to be kept preferably to any other whether greater or less. The less is defective, and inadequate to the occasion, the greater is excessive and erroneous. The just *mean* is learnt by experience; and, when known, is the proper object of choice. PART II. CHAP. II. SECT. VI.

It is not uncommon to consider *virtue* itself as a *mean* between two extremes towards either of which any deviation from the middle path is vice. Thus *liberality* is considered as a *mean* betwixt *prodigality* and *avarice*; *bravery* as a *mean* betwixt *temerity* and *cowardice*; *temperance* as a *mean* betwixt hurtful *abstinence* and *pernicious excess*.

Eſt modus in rebus, ſunt certi denique fines,
Quos ultra citraque nequit conſiſtere rectum *.

This method is adopted in one of the moſt elegant and maſterly productions of antiquity, on the ſubject of ethics or manners †; and there is no doubt, that propriety of conduct may be rendered perceptible and evident, not only when ſingle actions are ſeparately deſcribed, but alſo when placed in contraſt with any deviation from what is right, whether on the ſide of *defect* or *exceſs*.

Such illuſtrations, however, if uſeful in treating of the external effects of virtue, may rather ſerve to miſlead, in conſidering the excellency or depravity of mind, from which thoſe effects proceed.

Wiſdom and *goodneſs* are abſolute, not relative, ſubjects of eſteem. There may be a *defect* of either, but no *exceſs*. In the defects of intelligence, there is folly; but, in the higheſt meaſure of which it is ſuſceptible, there is no blameable extreme of wiſdom. There is no extreme of juſtice; nor in the mind, be the quality of whatever denomination, is there any extreme of what is right.

In practice, indeed, beneficent intention may produce too much or too little effect. The proper medium or mean, betwixt the extremes, to be found by obſervation or experience, is itſelf

* Horace.

† Ariſtotle's Ethics.

itſelf derived from a previous knowledge of what is right; and is not by any means to be conſidered as an original ſtandard of choice, even in matters of external convenience.

Mediocrity is certainly, not always upon its own account, an object of eſtimation. In matters, rather ornamental than neceſſary to human life, it is the reverſe of a commendation. In matters of genius, for inſtance, whether *poetry*, *eloquence*, *politics*, or *war*, it is better not to have any pretenſions, than to have a *mediocrity*, which is likely to engage the perſon poſſeſſed of it in a courſe, of which he is not likely to attain the end. It is better to follow tamely in the track of others, than to affect the command, or the diſplay of abilities, which miſlead or diſguſt the more, that they ſubſtitute a mediocrity of effect, where an exertion of the higheſt degree is required.

Wherever the *mean* betwixt two *extremes* is the preferable object of choice, it ſeems to be fixed by its comparative utility, not by any original perception of merit, in *mediocrity* itſelf, conſidered apart from its uſe. In the extreme of too little, there is a defect of utility; in the extreme of too much the exceſs is pernicious: And the ſalutary, or moſt uſeful meaſure, is that which determines the middle way to be choſen between the extremes: So that we are to look for the rule, by which this *mean* is to be diſtinguiſhed, and the very conſideration which recommends it in the circumſtance of its abſolute utility, or fitneſs to ſerve the purpoſe of nature.

If the ill effect of extremes ſuggeſt the expedience of recurring to the proper mean in every inſtance of human conduct, ſome apprehenſion of the proper meaſure or end of action is neceſſary

to

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to point out the evil of extremes, which consist in a deviation from the middle path towards either side, of excess, or of defect. And, if the consideration of *extremes* serves to illustrate the *mean* betwixt them, it is evident that the knowledge of that *mean* is required to point out the boundaries beyond which all that exceeds, or falls short, is in *extreme*, and pernicious.

SECTION

SECTION VII.

Of the unequal Degrees of Merit and Demerit in External Actions.

MERIT is the presence of that quality which, whatever it be, is the object of moral approbation; *demerit*, on the contrary, is the absence of such quality; or the presence of any quality which is the object of disapprobation.

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From the observations, that have occurred under a few of the preceding titles, it should appear, that neither mediocrity of effect, sympathy of feelings, nor actual utility, is the specific object of moral approbation; that moral good and evil are peculiar to mind; and that the *merit* of an action, or the object of moral approbation in any action, is the presence of qualities which constitute the specific excellence of mind: Such are *wisdom*, *goodness*, *temperance*, and *fortitude*. That efforts of *benevolence*, or good will to mankind, properly supported with intellectual ability, application, and resolution, constitute actions morally good. That

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malice, however directed or ſupported, conſtitutes an action morally evil.

This diſtinction is, to us, not only matter of perception and diſcernment, but awakens a ſentiment or paſſion, by which we are diſpoſed to accumulate *good* on the *good*, and *evil* on the *evil*. While we perceive that beneficence is a bleſſing, we would willingly confer additional bleſſings. Perceiving that malice is a curſe, we would willingly inflict additional ſuffering. This ſentiment is partly implied or expreſſed in the terms of *merit* and *demerit*.

That the good deſerves to be rewarded, and the evil to be puniſhed, is an apprehenſion which we are born to entertain, and is juſtly conſidered as a ſymptom or earneſt of the moral government of God, under which men being inſpired with a diſpoſition to diſtributive juſtice, become inſtruments of Providence for its actual effect. This diſpoſition operates moſt powerfully, perhaps, in its animoſity to what is *wrong*. The right is firm upon its own foundation, and needs not the prop of extraneous reward; while the wrong ſeems to call for interpoſition, to prevent, repel, or repair its effects.

Hence it is that *wrongs* are diſtinguiſhed under their reſpective denominations of *guilt* or *demerit*, more preciſely, perhaps, than the oppoſite degrees of merit. The *right*, however, alſo has its gradations, and the actions of men their unequal meaſures of approbation or eſteem. Actions, which indicate good will to mankind in the higheſt degree, are thoſe commonly which we conceive to be of the higheſt *merit*; as the effects of malice prepenſe are, on the contrary, of the higheſt *demerit*; and thus the preſence of good or ill diſpoſition is not only attended with mo-

ral approbation or difapprobation; but the meafure of the effect, in fuch inftances, is alfo ever found in juft proportion to that of the caufe.

Perfeverance in the exercife of any good difpofition, is admitted as an evidence of its power; or is the indication of a mind exempt from thofe paffions or views which occafionally miflead the will, or interrupt the tenour of a virtuous conduct.

Hence it is, that a beneficent courfe of life, uniformly purfued; that duties performed in the midft of *difficulty*, *danger*, or unmerited *obloquy*, in the midft of *allurements*, that would *feduce*, in the midft of *pain* or *fuffering*, that would deprefs the mind, or daunt the refolution, as they carry evidence of a difpofition proportionally vigorous and unfhaken, are juftly eftimated of the higheft *merit*.

Hence it is alfo, that fuperftitious Afceticks having a view to the circumftances that would prove the force of a virtuous affection, if any fuch actually exifted, while they withdraw from the world, and fhun every occafion on which good difpofitions towards mankind are exerted, miftake fafting, abftinence, and corporal penances, for articles of merit towards God. They attach the efteem that is due to *merit* to the circumftances of difficulty or fuffering, in which merit if real might fhine out with advantage; but which voluntarily incurred, and without any rational object, only give evidence of mifapprehenfion and folly.

Befides the immediate effects of wifdom and benevolence, which form the higeft order in the fcale of *merit*, there are articles of inferior confideration, fuch as propriety, decency, civility and politenefs,

politeneſs, which may proceed from a diſpoſition or habit of doing that which is agreeable, or of avoiding that which is offenſive to others; a diſpoſition in its own nature exquiſitely amiable, and whoſe effects are eſteemed proportionally to the evidence they bear of its reality; although, from the mere occaſions on which it is exerted, the higheſt meaſure of virtue could not be inferred.

In comparing ſuch examples together, we find, though without any preciſe diſtinction of name, a gradation in the ſcale of *merit*, by which men in the courſe of life are unequally the objects of approbation or eſteem.

At the ſame time, there is a correſponding gradation in the ſcale of *demerit*, which is not perhaps more obvious; but is thought to require a more pointed diſcrimination of names, ſuch as thoſe of *crimes*, *offences*, and *faults*.

Crimes, or actions of the higheſt demerit, are ſuch as proceed from malice, under any of its ordinary forms, whether of *envy*, *emulation*, *jealouſy* or *revenge*; or ſuch as proceed from any habit or paſſion, as from *covetouſneſs*, *ſenſuality*, or *ambition*, in gratifying of which the criminal has occaſion deliberately to treſpaſs on the rights, or to diſturb the peace of his fellow creatures.

When the crime proceeding from one or other of theſe motives is committed under circumſtances of peculiar truſt, or againſt perſons peculiarly entitled to reſpect and affection, the atrocity of guilt or degree of demerit is rated accordingly; and pernicious actions, performed deliberately, intentionally or knowingly, though not originally ſuggeſted by malice, yet as they imply great defect

defect of the oppoſite good diſpoſitions of humanity or candour, and thereby give evidence of great depravity, have a correſponding degree of *demerit*.

The perſon who without having entertained any malice, nevertheleſs deliberately kills that he may rob, is juſtly reckoned guilty of murder ; and he who knowingly performs an action pernicious to his neighbour, though only from a motive of intereſt or conveniency to himſelf otherwiſe allowable, is nevertheleſs in ſuch inſtances, juſtly reckoned guilty of a heinous crime.

As perſons thus deliberately offending are not likely, from mere recollection, to repent of the actions, which, under a recollected perception of their pernicious nature, they already performed; the peace of ſociety, and the ſafety of innocence, require, that ſuch perſons ſhould be reſtrained by the fear of puniſhment ; and, if not reclaimable, that they ſhould be removed by exile or death from the ſociety they diſturb or moleſt.

What in the ſcale of reprobation is qualified with the more venial name of *offence*, may, in reſpect to the external effect, be equally hurtful with what is denominated a *crime*.

Under this title of an *offence*, the peace of ſociety may be diſturbed, or a citizen may ſuffer in his perſon or effects ; but when this proceeds not from malice, nor from an ordinary habit of indifference to the rights of others, but from a ſudden and occaſional emotion or paſſion, which may hurry a mind, otherwiſe diſpoſed to innocence and good will, into an action pernicious or hurtful to thoſe whom it may concern, the demerit is proportionally alleviated.

Such offenders, on the returns of reflection, are capable of ſincere repentance, and they may be reclaimed by ſuch meaſures of puniſhment or animadverſion as awaken their remorſe, and put them on their guard againſt like ſlips of temper or effects of provocation.

Under the latter denomination of a fault, we may conceive, and often have occaſion to admit, a lower degree of demerit than is implied in either of the former titles. Of this a perſon may be guilty, if, from ignorance or inadvertency, he ſhall be the cauſe of harm to his fellow creatures, although he have not either the deliberate intention of the *criminal*, nor the unruly paſſion of the *offender*.

Faults of inadvertency, or of ignorance may have unequal degrees of demerit. Where the caſe by its general importance, or by any peculiar circumſtances of perſonal concern calls up the attention in a ſpecial degree, *inadvertency* is proportionally inexcuſeable, and may juſtly incur high meaſures of puniſhment.

Ignorance of what, by the general condition of our nature, by our profeſſion, or by any peculiar opportunities of inſtruction, we ought ſpecially to know, becomes faulty in proportion as theſe circumſtances accumulate.

On this account it is a juſt maxim in the cognizance of *crimes*, that ignorance of the *fact* may be admitted as a plea of innocence, but that ignorance of the *law* never can be admitted to juſtify what is illegal. Thus a perſon, who, in ſhooting his arrow to a diſtance, ſhall wound his fellow creature, may plead

his

his ignorance of the *fact*, or his ignorance that there was any person in the way of being ſo wounded; but he cannot plead ignorance of the law, or that he did not know it was a crime to injure or wound his fellow creature. PART. II. CHAP. II. SECT. VII.

The law of nature, ſuggeſted by the regard which a man naturally has for mankind, cannot be ſuppoſed unknown, without an implication of the greateſt depravity; and if any one, accuſed of an action pernicious to his neighbour, ſhould plead that he did not know it was wrong to do harm, he would, in that very plea, eſtabliſh a heavier charge of depravity againſt himſelf, than any occaſional or tranſient action could imply.

The ſum of this argument is, that although external actions conſidered apart from will, intention, or diſpoſition of mind, like mechanical cauſes of any other ſort, may be productive of benefit or harm; yet they do not appear to be veſted with any moral quality, until the movement performed is traced to its connection with the diſpoſition of mind from which it proceeds. This is admitted not only with reſpect to involuntary or convulſive motions, in which the arm of one man, in a fit, may be ſo thrown about as to wound another: It is admitted, alſo, with reſpect to voluntary actions, in which a perſon may caſually, or without any blameable inadvertency be the phyſical cauſe of harm to another.

The diſtinction of moral good and evil cannot be aſcertained in the deſcription of mere external action; nor can the merit or demerit of a man be known until he has acted. Inſomuch, that although in abſtraction we may take aſunder, and ſtate apart, qualities of the mind and movements of the body, yet theſe in reality

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reality are combined together in the conception which men mutually form of their moral diſtinctions.

Wiſdom and goodneſs are the conſtituents of merit; proper and beneficent actions are the evidence of wiſdom and goodneſs. A ſeries of beneficent actions implies benevolence; a ſeries of pernicious actions implies malice; proper conduct implies wiſdom; improper conduct implies folly: And, wherever wiſdom and goodneſs exiſt, proper and beneficent conduct will follow, as the tree produces its fruit, or the cauſe in any other inſtance is followed by its effect.

External action, conſidered as a feature of the human character, or as an emanation of good or ill diſpoſition, is a proper ſubject of moral approbation or cenſure, or comes properly within the direction of moral government or law.

The ſame law, that recommends the love of mankind as an excellence and a bleſſing to the mind of man, muſt likewiſe recommend beneficent actions under the predicament of moral duty; and the law which reprobates malice muſt reprobate pernicious actions alſo.

When we have thus traced the approbation of external actions to that wiſdom and goodneſs, which is the ſource of ſuch actions, we may ſuppoſe a queſtion to be put on the ſubject of moral action, the ſame as that we ſuppoſed on the ſubject of natural beauty; If external actions be approved on account of the wiſdom and goodneſs from which they proceed, on what account are wiſdom and goodneſs themſelves approved? And we may repeat, That wiſdom and goodneſs are approved on their own account: Or, if this anſwer ſhould not be ſatisfactory, we may change the terms, and ſay, That wiſdom and goodneſs are approved

approved as conſtituents of perfection and happineſs, and in this terminate our ſeries of reaſons, which, however continued through any number of ſteps, muſt lead at laſt to ſomething that is eſtimable on its own account.

The huſbandman values a manure becauſe it promotes the fertility of his land. He values fertility on account of its produce; the produce on account of its application to the purpoſes of ſubſiſtence and accommodation; and theſe on account of their effect in preſerving life; and if he values life, on account of the happineſs of which it is ſuceptible, ſtill in the end there muſt be ſome conſideration that is valued on its own account. No ſeries in human affairs is infinit ; and every choice which is made of one thing on account of another, implies, that there is ſomewhere, and however remote from the preſent ground of our choice, an object that is actually valuable upon its own account.

In the ſcale of created beings the intelligent is ſupreme, and approaches neareſt to the eternal ſource of exiſtence and excellence. If intelligent beings themſelves may be unequal, and riſe above one another in their unequal approaches to Supreme wiſdom and goodneſs, ſuch gradations acknowledged amount to an acknowledgement alſo, that in perfect intelligence there is an excellence or a good which is in itſelf the Supreme object of veneration and love.

SECTION

SECTION VIII.

Of the Obligation and Sanctions of Moral Law.

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MORAL law in the moſt general form, as has been already ſtated, is an expreſſion of what is good, and therefore an object of choice.

To every rational choice there is an *obligation* and a *ſanction.* Theſe terms are not ſynonymous: and yet their diſtinction is more eaſily underſtood than expreſſed in any other form of words.

Obligation, in the original ſenſe of the term, ſeems to imply ſome tie or bond, * which is incurred by the perſon obliged; while *ſanction* implies the conſideration by which he is induced to

* *Obligatio* eſt juris vinculum, quo, neceſſitate aſtringimus alicujus rei ſolvendæ ſecundum noſtræ civitatis jura.

Inſt. Juſt. lib. III. titulo decimo quarto.

to fulfil that bond. So that, in making a free choice, the reality of a good forms the obligation, and the confequence to be apprehended forms the fanction. Or, if a perfon fhould fay, that he is not obliged to chufe what is good, and may, if it fo pleafe him, prefer mifery to happinefs, he may be told, that this is not the language of intelligence; nor can it be ferioufly held by any one who takes the words in their ordinary meaning.

To the queftion, therefore, that may arife in this place, Why any one fhould chufe to be virtuous rather than vicious? It may be anfwered; Becaufe virtue is happinefs, vice is mifery; and in this contraft is implied at once all the good of which human nature is fufceptible, and all the evil to which it is expofed. In what, therefore, we may be afked, does integrity differ from what is fo loudly complained of under the notion of felfifhnefs? In nothing but in that which is of all others the moft effential diftinction,—the wifdom of a choice which is made by the one, and the folly of the other. Thofe we call felfifh endeavour to fupprefs the beft and happieft fentiments of their nature, and become diffaffected or indifferent to their fellow-creatures; while the virtuous have a common caufe with mankind; and, being fecure in the enjoyments of an affectionate temper, partake in the good which providence has difpenfed to the whole; and are ever happy in promoting the fame end to the utmoft of their power.

Some writers on the fubject of morality, and lawyers for the moft part, confider obligation as refulting from the command of a fuperior, and the fanction, or caufe of compliance, as refulting from the power of that fuperior to enforce his commands. They are ufed to confider laws that may be enforced; and in their

notion of moral obligation, would recur to an authority that is fit to enforce the obfervance of moral duties.

But power employed to determine the will of a free agent muft operate in prefenting motives of choice; in prefenting happinefs as the reward of fidelity, and mifery as the punifhment of neglect: And whether this be done by fo ordering the nature of things, that virtue fhall be its own reward, and vice its own punifhment; or whether it be done by a fubfequent act of will and difcretion, in rewarding the good and punifhing the wicked, in a way not previoufly connected with the part they have acted, the reality of the obligation, and the fanction is the fame: For if, in the nature of things, moral good be conftituent of happinefs, and moral evil of mifery, what can Almighty power do more to determine the choice of the one and the rejection of the other? If we conceive any fanction of moral law as different from this, it muft however terminate in the fame effect. For what are the honours and rewards which men beftow upon virtue, or the chains and imprifonment which they award to the wicked? What is the heaven which religion decrees to the one, or the hell which is provided for the others? but happinefs and mifery in other terms, or terms, if you will, in which every one is left to conceive what will operate moft on his own apprehenfions and feelings.

In the cafe of man, furely, it requires no great effort of underftanding to perceive that wifdom, benevolence, temperance, and fortitude are happy qualities; that malice, folly, and cowardice are wretched.

And if it fhould be thought neceffary to confider moral law as the command of a fuperior, this may be done without departing from

from that original doctrine of nature we have ſtated,—that *moral good is the ſpecific excellence and felicity of human nature, and moral depravity its ſpecific defect and wretchedneſs.* PART II. CHAP. II. SECT VIII.

The Sovereign of the univerſe, by having made things as they are, has given his command, and promulgated his law in behalf of morality; and in every inſtance of conformity to his law, and in every infraction of it, continues to apply the ſanction of happineſs and miſery. Wiſdom, benevolence, fortitude, and temperance, he has ſaid ſhall be the conſtituents of happineſs; folly, malice, cowardice, and debauchery ſhall be the conſtituents of debaſement and miſery. We may therefore chuſe to treat of moral obligation as the tie of reaſon, to prefer what is highly valuable in itſelf and eligible upon its own account; or we may treat of this obligation as the tie of reaſon, binding the creature to obey his Creator, in making a choice, in ſupport of which the Creator has exerted, and will continue to exert, his ſovereign power.

In chuſing what is morally good, it is happy to know that we obey our Creator; and in obeying our Creator, it is happy to know, that what he commands is the ſpecific good, and felicity of our nature.

To ſeparate theſe conſiderations were doubtleſs of ill effect; and the ſanctions of morality would be leſs powerful upon either principle apart, than they are upon the foundations of both united. Merely to obey, without a ſenſe of goodneſs and rectitude in the command, would be greatly ſhort of that duty which we owe to our beneficent Maker; and the love of virtue is no doubt greatly encouraged by the conſideration, that Almighty power, in the eſtabliſhed order of things, is exerted in its favour.

PART II. CHAP. II. SECT. VIII.

In the genuine alliance of religion and morality, the wiſdom and goodneſs, which we perceive to be the conſtituents of happineſs, are likewiſe enjoined by the ſovereign command of God. They are preſented to our thoughts, as attributes of the Supreme Being himſelf, and as forming in him the objects of reverence and of love; and our own capacity of attaining, in any degree, to a participation of theſe qualities is conſidered as the higheſt perfection or prerogative of our nature.

To the ingenuous mind this conſtitutes the obligation, and the ſanction, whether of religion itſelf, or of moral duty. If we ſhould be diſpoſed farther to enquire; by what ſanction the profligate may be reclaimed from their profligacy, or by what means thoſe who are diſpoſed to the commiſſion of crimes may be actually reſtrained from diſturbing the peace of ſociety? the anſwer may be difficult.

Mankind from age to age have laboured upon this ſubject; have urged the reaſons of morality; have denounced the vengeance of God againſt iniquity; have held up the ſword of juſtice, and threatened to exterminate the wicked; and all this, though no doubt with great effect, ſtill without being able to reclaim the depraved from their vices, or to prevent the commiſſion of crimes.

Happineſs is miſunderſtood; religion is ſlighted, the movements of juſtice are ſlow, and defer the infliction of puniſhment, till after the wrong is committed.

Men have the concerns of animal life, as well as thoſe of in-

telligent being, to care for; and, however evident the co-incidence of happineſs and of duty, neither the degree of this evidence, nor that of any other fact, is at all times ſufficient to guard the imagination againſt the admiſſion of falſe apprehenſions.

In the conceptions of ordinary men, there are advantages, whether of wealth or pleaſure, which it is their intereſt or paſſion to obtain: But there are means ſeemingly effectual to obtain theſe advantages, from which they conceive it their duty to refrain. They are tempted by the end; they are reſtrained by the law of morality, which forbids the means. While they continue to think in this manner, the obligation and the ſanction of the moral law may, in their apprehenſion, be either the conſciouſneſs of what is right and wrong; the general eſteem or contempt of mankind; the awe in which they ſtand of the ſupreme Being; or the arm of the magiſtrate, which is lifted up to protect the innocent againſt the wrongs which they are diſpoſed to commit: So that, in this view of the matter, and as conceived by ordinary men, the ſanctions of morality may be enumerated under the titles of *conſcience*, *public repute*, *compulſory law*, and *religion*.

With reſpect to the firſt, it may be obſerved, that perſons who diſtinguiſh between their intereſt, on the one hand, and their duty on the other, frequently conceive theſe objects to be in oppoſition, and fit to diſtract their choice. They frequently feel the conſideration of their intereſt more cogent than that of their duty, but ſtill do not confound theſe conſiderations together, nor loſe the ſenſe of moral obligation while they treſpaſs on the maxims of moral law. In departing from their duty, they are ſtill conſcious of its reality, and affected with remorſe and ſhame: So that the ſanction of conſcience is entire, even when it is neglected.

It

It were irrational in a man to hurt himſelf; and the neglect of this rule is marked with a conſciouſneſs of folly. But it has pleaſed the Almighty, that we ſhould hold every perſon under a different form of obligation required to conſult the welfare, or to abſtain from the offer of harm to his neighbour. This form of obligation perceived carries with it the ſanction of innocence, amounting to a high meaſure of ſatisfaction in the conſciouſneſs of integrity, and a high meaſure of remorſe, of diſſatisfaction, and ſuffering, in the conſciouſneſs of any criminal treſpaſs on the rights of a fellow creature.

With this, in ſome degree, is connected the ſanction of public repute alſo, in which every perſon apprehends that he is an object of eſteem or reprobation to other men.

As man is formed for ſociety, he is juſtly made to enjoy or to ſuffer under the approbation or diſapprobation of other men, as well as under his own. The complacency, therefore, of his fellow creatures, who eſteem and who confide in him, or the averſion with which they reprobate or ſhun him, are powerful acceſſaries to conſcience in urging its dictates.

Many articles of decency, or even propriety of manners, are derived from cuſtom, or the arbitrary conceptions of men, relating to ſuch matters. For the obſervance of theſe articles, public repute is the peculiar ſanction. The obſervance of ſome determinate forms is of great conſequence to public order; and individuals, even in matters of indifference, muſt not think themſelves at liberty to ſlight the authority of their age and country, in the forms of behaviour, which they are required to obſerve.

States

States or regular communities alſo have their rights, which they are prepared to maintain by force. They have their laws to which the magiſtrate is empowered to compel obedience. For theſe purpoſes the community is armed, fortreſſes are built, and military forms eſtabliſhed. Tribunals are erected for the trial of crimes; officers are entruſted with public force; *chains*, *fetters*, and *public priſons*, and the other apparatus of coercion, are provided for the guilty. In theſe inſtitutions, there is a ſanction of force to ſupport the obligation to innocence, to preſerve the public peace, and to ſecure the harmleſs in the poſſeſſion of his rights. Such may be termed the ſanction of compulſory law, which, though not in every inſtance proper to obtain acts of beneficence, yet in every inſtance is applicable to reſtrain the commiſſion of crimes.

In aid of the magiſtracy, alſo, in every well ordered community, inſtitutions of religion are wiſely adopted, and the authority of religion is impreſſed on the minds of men, by ſolemn rites ſignificant of the preſence of God and the homage which is due to him.

We may avoid for the preſent entering into any queſtion relating to the abuſe of ſuch inſtitutions, whether to the purpoſes of public tyranny or private gain. We conſider them only with a view to their proper uſe in confirming the obligations to innocence and duty.

Man, we have had occaſion to obſerve, is formed for religion as well as ſociety. He is capable of perceiving univerſal intelligence in the fabric of the univerſe. He perceives in the predi-

lection for juſtice and innocence, in the horrors at guilt which are impreſſed on his own mind, the will of that ſovereign authority which reigns in the ſyſtem of nature. To him the conſciouſneſs of integrity and goodneſs is peace and amity with God: The conſciouſneſs of depravity and wickedneſs is rebellion and enmity; the one rendering exiſtence itſelf a bleſſing, in the confidence of preſent and future protection; the other rendering life itſelf a curſe, under the horrors of preſent remorſe, and the fear or apprehenſion of future and impending evils.

Such is religion in the form of mere reflexion as it operates in the mind; in the form of a public eſtabliſhment it operates in the manner of compulſory law, with the denunciations of future puniſhment and the hopes of future reward. But the government of God, more comprehenſive than the government of man, extends to the mind as well as to external actions, and carries the application of compulſory law to reſtrain not only the overt acts of iniquity, but even the thoughts, wiſhes or purpoſes which may lead to ſuch external effects; requiring ſuch a guard upon the mind itſelf as may ſuppreſs the firſt approaches to evil, and induce habits of innocence and of virtue.

Juſt religion, beſides its effects as a reſtraining principle is in itſelf a ſource of elevation and of goodneſs in the mind of man. In what is the love of God different from the love of goodneſs itſelf? Or in what is the deſire to act a part agreeable to the Supreme Being different from that elevation of mind with which the worthy aſpire to perfection?

In this enumeration of ſanctions, or motives to determine the virtuous choice, included in the general and comprehenſive diſ-

tinction of good and evil. We have mentioned thofe of *confcience*, of *public repute*, of *religion*, and *compulfory law*.

Such then we may conceive to be the practical obligations of men, and fuch to be the fanctions to which they either do, or ought to, recur in fettling the tenor of their affections and of their conduct *.

In the farther arrangement of our fubject, we may avail ourfelves of a divifion that naturally arifes from the confideration of thefe different fanctions, and may confider the requifitions of compulfory law; or rights to be fupported by force, apart from the maxims of beneficence and duty, which are urged by the other confiderations now mentioned. The firft will extend to every cafe in which force or compulfion may be properly employed. The fecond, to thofe cafes in which the obligation of moral duty, however ftrong, cannot properly be enforced, and muft be left to the free will of the agent.

The firft may be termed *jurifprudence*; the fecond *cafuiftry*, or that part of moral fcience which relates to action and the characteriftics of a happy life. And to thefe may be fubjoined, under the title of *politics*, the difcuffion of material queftions, relating not merely to men as members of fociety, but to the fociety itfelf, in refpect to its inftitutions and forms. And under one or other of thefe titles may be comprifed all that yet remains to be done in obfervance of the method which has been propofed for this work.

* Juris precepta funt hæc: Honefte vivere, alterum non lædere, fuum cuique tribuere.
Inft. Juft. lib. i. par. 3.

CHAP. III.

OF JURISPRUDENCE OR COMPULSORY LAW.

PART FIRST.

SECTION I.

Of the Principle of Compulsory Law.

IT is a well known fact, that mankind sometimes employ force to obtain the observance of moral laws, and that the right to compel the performance of a duty, though not universal in every case, is, at least, in some instances fully acknowledged. PART II. CHAP. III. SECT. I.

We are now to investigate and to state the principle from which this right in any case can be derived.

PART II. CHAP. III. SECT. I.

It may be obſerved, that in all the inſtances in which the right of one man to compel another is acknowledged, compulſion, either in its immediate operation, or in its final effect, is an act of defence.

The ſovereign employs force to defend his country againſt foreign enemies, or to make repriſals for a wrong that is done to his ſubjects. The magiſtrate employs force to repreſs crimes; the citizen to defend his dwelling or his perſon. And even in exacting the payment of a debt; or in requiring the performance of a contract, there is no more than an exaction of what is juſtly due; or, as we ſhall have occaſion to evince, no more than an act of defence on the part of the exactor, maintaining a right of which he is already in poſſeſſion.

The great principle of morality extends to beneficence, as well as innocence; but from this account of the circumſtances in which compulſion is applicable, the principle of compulſory law is limited to the repulſion of wrongs, and to that part in the object of the moral precept above cited, which forbids one perſon to be the author of harm to another *.

In ſearch of this or any other principle in nature, by whatever ſteps we proceed, we muſt arrive at laſt at ſomething that is ſelf-evident. And ſuch we may ſay is the maxim, *That every innocent perſon may defend himſelf*; to which we may join what is equally evident, that *every one having power, may employ it in defence of any other innocent perſon.*

To the purpoſe of defence a ſufficient meaſure of *force* is required

* Alterum non lædere.

quired, and in many inftances is the only means that can be fuccefsfully employed. A perfon difpofed to commit an injury may not be perfuaded to defift from his purpofe; nor can he be eluded perhaps by any artifice or ftratagem; it remains therefore that a *force* fuperior to his may be the only means fufficient to reftrain him.

In every cafe of defence, force is employed to fecure the innocent, rather than to obtain, from thofe who would injure him, the difcharge of a duty. And the fpecific end of compulfory law being to repel a wrong, the means are adequate and juft.

But if any one, inftead of difputing the legality of *force* in a cafe of defence, fhould contend, that it is not peculiar merely to fuch cafes, but may be employed, not only in defending a right, but in obtaining any other end beneficial to mankind; that as religion and virtue are confeffedly of the higheft value, every effectual means, and force no lefs than any other, may be employed to obtain them, whether by propagating faith towards God or charity towards men.

Thefe no doubt are bleffings, in obtaining of which no effectual means are to be fpared; but if we wifh to promote the caufe of religion and virtue, means are to be employed which inform the mind, conciliate the affections, and gain the will. To thefe purpofes *force* is inadequate. Its effects, on the contrary, are to render the underftanding lefs docile, and to alienate the mind. And it muft be rejected as an inftrument of inftruction or moral improvement; becaufe it would be irrational to employ means which have a tendency adverfe to the purpofe for which they are employed.

Nay, but force is competent to obtain, even from thofe againft whom

PART II. CHAP. III. SECT. I.

whom it is employed, the external fruits of faith and charity! To this it may be anſwered, That if theſe fruits be required as a moral good in thoſe who are made to yield them, the reality of any ſuch good may be queſtioned; or rather it is evident, that a forced performance of ſuppoſed good works does not conſtitute any good in him who is compelled to perform them. Virtue cannot be forced. It is voluntary, or it does not exiſt. Faith is ſincere; or its profeſſion is a mere hypocriſy.

If the fruit of good works be required in one man for the benefit of another; it is evident that force cannot be juſtly employed for this purpoſe. Benefits extorted by *force* are robberies, not acts of beneficence.

We may conclude, therefore, that the uſe of force, which is admiſſible in the caſe of defence, whether immediate or remote, is alſo limited to ſuch caſes; and that although men are bound, under every other ſanction of duty, to avoid being authors of harm, yet, that they are, in this duty of abſtaining from harm, peculiarly repreſſible by force alſo: And from this we may ſafely aſſume, that the *right of defence is the ſpecific principle of compulſory law.*

In treating of this ſubject, accordingly, we are not ſo much to conſider the obligation under which every perſon lies to be innocent, as to conſider the right which every perſon has to defend himſelf, and his fellow creature, by every effectual means in his power.

This right amounts to a permiſſion of whatever may be neceſſary to ſafety, but does not contain any poſitive injunction to do all that may be wanted for this purpoſe. A perſon attacked in

in his perſon may kill the aggreſſor ; but is not required to do ſo much. PART II. CHAP. III. SECT. I.

In the application of our principle, therefore, we endeavour to point out how far the right of defence extends, but do not, in any caſe whatever, pretend to lay the perſon who defends himſelf or his neighbour, under any tie of neceſſity to go to the utmoſt extent. The citizen, it is admitted, may kill the houſebreaker who alarms his dwelling in the night, but is not required to proceed ſo far : Nay, on the ſuppoſition that he may defend himſelf and his dwelling, without having recourſe to this extremity, he is by the law of nature actually reſtrained from it.

In conceiving a juſt and compleat act of defence, we muſt ſuppoſe ſome thing that is to be defended or maintained ; and ſpecify the means that may be lawfully employed for this purpoſe.

That which a perſon may lawfully defend or maintain is termed his *right*. The circumſtances under which a right is expoſed or invaded may point out the means which are adequate and neceſſary to its preſervation ; and the ſubject of juriſprudence or compulſory law, ſo conceived, admits of being divided into two principal parts, of which one relates to the *rights* of men, the other to the *means of defence*.

SECTION

SECTION II.

Of the Term Right in its most General Acceptation.

PART II. CHAP. III. SECT. II.

THIS term is ſometimes an adjective, employed to diſtinguiſh the quality of an action that is proper or morally good; and, in this ſenſe, to aſcertain what is *right*, is to apply the principle of moral law to the particular ſubject in queſtion.

In our preſent inquiry, the term *right* has a different meaning: It is a ſubſtantive, the name of a thing, or relation of a perſon to a thing, and not the mere quality of an action. It may be reckoned among the ſubjects which are not ſuſceptible of a formal definition. But, we may recur to the caſes in which it is ſuppoſed to exiſt, and leave the mind to collect its meaning from a conſideration of the point, to which it refers in all the caſes enumerated.

Thus, a perſon has a *right* to the uſe of his faculties and powers; he has a *right* to enjoy the light of the ſun, and the air of

of the atmofphere; he has a *right* to the ufe of his property, and the fruits of his labour. Thefe, are felf-evident propofitions, and the meaning of the term *right*, which occurs in all of them, may be collected from its uniform fignification in each. Agreeably to this rule, *right* is the relation of a perfon to a thing in which no alteration ought to be made, without his own confent.

In this circumlocution, the names of *perfon* and *thing* imply, that a *right* is the appurtenance of a perfon, or of a being vefted with choice and volition, and has reference to the will of fuch perfon refpecting the object of his choice. This object may fubfift in the perfon himfelf, in his lot or poffeffion, or in any conftituent of his being or ftate whatever.

It is a part in the focial nature of man, that *rights* are to different men mutually objects of confideration and acknowledgement.

The concern of a perfon in his own right, is implied in the principle of felf-prefervation; his concern in the rights of others is implied in the principle of fociety, or in the fympathy of man with his fellow creatures.

Wrong is the violation of *right*; and, the fame concern which interefts the mind in the prefervation of the one, is a caufe of refentment on occafion of the other.

There may be a *claim* or *pretenfion* without a *right*; but a right, whatever be the fubject to which it refers, is exclufive, and fufficient to fet afide every fuppofeable claim or pretenfion to the fame fubject.

Although numbers at once may lay claim to a right, there can be no more than one to whom it is due; and the object of discussion, under opposite claims, is to determine with whom the right shall be found to exist: So that, although the right of any two or more persons may be questioned, or their pretensions remain undecided, yet every question of right implies, that a just title, wherever it be found, is exclusive of every other claim or pretension whatever.

Although, therefore, in the loose application of words, or in common language, we sometimes use the terms right, claim, or pretension promiscuously; yet, in propriety of expression, it is well known, that there may be a pretension or a claim where there is no right, and that a right may remain unclaimed and undecided.

From inattention to the propriety of language, or from a wish to make way for a favourite tenet, by the help of some ambiguity, it has been said, that in the state of nature, or prior to convention, all men had equal rights to all things; the meaning must be, that, prior to convention, no right was ascertained; and that as no person had any right, so all men were equal in this respect. How far the position is true even in this sense we shall have occasion to consider.

In the mean time, we assume, that the right of one person precludes a supposeable right in any other person to the same subject: And so far it is proper that the term be understood, before we proceed to consider the different denominations under which rights may be known. As they differ in respect to the subjects

jects in which they are conſtituted, ſo they differ alſo in reſpect to the origin or ſource from which they are derived.

Among the ſources of right we ſhall find, that the law of defence itſelf may be numbered; and, upon this account, before we proceed to conſider the diſtinction of rights, eſpecially in reſpect to their origin, it may be proper to ſtate the law of defence in its moſt general terms, as a ſource to which among others we may have occaſion to recur in treating this part of our ſubject.

SECTION III.

Of the Law of Defence in General.

PART II. CHAP. III. SECT. III.

ACCORDING to the law of defence a *right* may be maintained by any means which are *effectual* and *neceſſary* for this purpoſe.

It were irrational to employ means ineffectual, and it might be cruel in ſome inſtances to employ ſeverities that might have been ſpared.

If means are ſuppoſed to be neceſſary, it is implied that the end cannot be obtained without them; and to ſuppoſe that a defence is allowed, and yet that the neceſſary means are prohibited would be to ſuppoſe, that the law of nature is inconſiſtent with itſelf; propoſes the end, and yet forbids the purſuit.

It is true, that in ſome caſes the neceſſary means may be ſo ſevere, and even ſo deſtructive to the party againſt whom they are

are employed, that humanity revolts againſt the uſe of them ; and perſons of a certain mild diſpoſition may ſubmit to harm, rather than employ, for defence, meaſures of any cruel effect to which the aggreſſor may have expoſed himſelf.

In the conteſt of parties even the aggreſſor does not immediately forfeit every right ; and there are accordingly limits to the very means of defence that may be employed againſt him ; but the forbearance of any neceſſary means of defence however ſevere, is a voluntary effort of goodneſs in the perſon wronged, not ſuch a conceſſion as the aggreſſor may claim as a right due to himſelf.

As the law of defence, therefore, permits the uſe of any means which are neceſſary, ſo it allows to the perſon againſt whom they are employed, an exception in the want of neceſſity, when means deſtructive or harmful are unneceſſarily employed againſt him.

The object of law being to maintain a right, every exceſs of harm beyond what is neceſſary for this purpoſe is itſelf an injury, and gives to the party, ſuffering under it, a right of defence. So much is implied in the terms *effectual* and *neceſſary*, by which the means of defence are characterized.

Under the general notion of ſafety are included not only the *repulſion* of a wrong that is offered, but likewiſe the *prevention* of a wrong that is apprehended, and the *reparation* of a damage that has been done ; ſo that the law of defence conſiſts of three clauſes.

1*ſt*, That a wrong apprehended may be *prevented.*

2*d*, That a wrong offered may be *repelled*.

3*d*, That *reparation* may be exacted of a damage received.

According to the firſt clauſe, every party may provide himſelf with the neceſſary precautions againſt the harm to which he may think himſelf expoſed.

According to the ſecond, he may repel an aſſault, or turn away from himſelf an evil that is intended or dreaded.

According to the third, he may compel the injurious to make reparation: And in this laſt clauſe particularly are found certain claims of right which we are not qualified to diſcuſs, except ſo far as the clauſe itſelf is ſtated and underſtood.

It is to be remembered alſo, that in every queſtion of right men are permitted to act as *auxiliaries* as well as *principals*, and that where a third party interpoſes, the law of nature, in all its limitations and clauſes, and in every caſe of defence, applies equally to the one as to the other.

SECTION

SECTION IV.

Of the general Titles under which the Rights of Men may be claſſed.

IN a ſubject familiar and obvious to every perſon there is more danger that we overlook what is evident, than what may require inveſtigation and reſearch. PART II. CHAP. III. SECT. IV.

After having aſſumed as a ſelf evident maxim, that a perſon may defend himſelf, it appears unneceſſary to ſubjoin, or it is rather a repetition of the ſame thing in other words, to ſay, that he may defend his perſon, the limbs and organs of his body, and exerciſe the faculties of his mind.—Yet theſe, in purſuing our ſubject methodically, we ſhall have occaſion to cite; and much depends on their being kept in view, when we would diſcuſs certain queſtions relating to the origin as well as progreſs of juſtice in the affairs of men.

Theſe are original appurtenances of human nature or inſeparable from it, and the maxims of juſtice relating to theſe ſub-

jects muſt have been coeval with the ſubjects, and inſeparable from human nature alſo.

There cannot therefore have been a time in which man had yet to acquire his right of defence in reſpect to the particulars mentioned, nor a time in which it was not juſt to reſpect the perſon of a man, as much or more than to reſpect his poſſeſſion or his eſtate.

In this view of the matter, juſtice cannot be ſaid to be an artificial virtue, any more than the perſon of a man to which it refers is artifical. And no time can be aſſigned for the commencement of a perſon's right to defend himſelf different from the time at which he began to exiſt. In every ſtate of his exiſtence, by whatever name we call it, whether the ſtate of nature, the ſtate of ſociety or convention, as every one had a right to defend himſelf, ſo in every one it would have been wrong to invade that right.

It is abſurd therefore to allege, that in any ſtate of mankind all men had equal rights to all things, or that the right of any one to defend his own perſon took its riſe from convention. It is indeed probable, that ſuch a doctrine never would have been advanced, nor would juſtice in the moſt general and comprehenſive terms have been ſuppoſed to be an artificial or adventitious virtue; if reaſoners had not overlooked the ſelf-evident rights of the perſon, and carried their view at once to matters of property in which the right is confeſſedly artificial or adventitious.

With reſpect to ſubjects of poſſeſſion or property, it is admitted, that until they were poſſeſſed by ſome one, they were open

to

to any one, and became matter of juſt poſſeſſion to the firſt occupier.

To theſe only Mr Hobbes ſeems to have adverted, when he ſays, that in the ſtate of nature "all men had equal rights to all "things;" and the meaning muſt be, that no one had any right to any thing until he had occupied it: That occupancy was equally open to all men; but he ought to have ſubjoined, that after a ſubject was fairly poſſeſſed, no one had a right to diſturb the firſt occupier in his uſe of the ſubject.

The undeniable evidence of obvious and uncontrovertable truths makes it abſurd or impertinent to ſtate them for information, or in the form of diſcovery; but to aſſume principles, or to adopt concluſions in direct contradiction to ſuch obvious truths may indeed have the merit of novelty, or ſeem to proceed from profound obſervation, but is certainly in a much higher degree abſurd than the repetition of any truth, however obvious and previouſly known.

To guard againſt the firſt of theſe errors we may be obliged to incur the ſecond, and attempt the enumeration of rights even under titles to which the attention of all mankind might be taken for granted, without any mention of them.

On this account, then, we begin with obſerving, that the rights of men may be conſidered, either in reſpect to their ſubject, or in reſpect to their origin.

Conſidered in reſpect to their ſubject, they are by lawyers ſometimes termed *perſonal* and *real* *.

* See Blackſtone's Commentaries on the Laws of England.

PART II. CHAP. III. SECT. IV.

Confidered in refpect to their origin, they may be termed *natural* and *artificial*; or, in terms perhaps lefs apt to be miftaken, *original* and *adventitious*.

Perfonal rights fubfift in the perfon, and relate to the conftituents of his nature and frame. Such are the limbs and organs of the body, and the faculties of the mind, with the ufes of both. Such is life itfelf, freedom of innocent action, and enjoyment of what, without injury to another, is fairly occupied.

Perfons are diftingifhed in the terms of law under the names of perfons *natural* and perfons *artificial*. The individual is a perfon natural; corporations, ftates, or any plurality of men acting collectively, or under any common direction, are perfons artificial.

In perfons of the latter defcription, political forms, and the conftituent members of the body politic, analogous to the frame and organic parts of the natural body, may be confidered as matter of perfonal right to the community.

Rights *real* fubfift in things feparate from the perfon, provided they may become fubjects of exclufive or incompatible ufe. Such is the right which a perfon obtains to the clothes with which he is covered, or to the ground or other fubject which he has fairly poffeffed.

Real rights, or the right to things, may be referred to three principal heads: *Poffeffion*,—*Property*,—and *Command*.

The right of *poſſeſſion* ſubſiſts only ſo long as the thing is in actual uſe, and may therefore be tranſient or ſubject to intermiſſion.

The right of *property* is excluſive, and continues even during the intermiſſions of actual uſe ; it continues therefore until it has ceaſed with conſent of the proprietor.

The right to *command* reſpects the ſervices or the obedience ſuppoſed due from one perſon to another.

Rights conſidered in reſpect to their ſource, being *original* or *adventitious*, it is of moment with reſpect to the firſt to ſpecify their ſubject ; and with reſpect to the ſecond, to aſcertain the titles on which they are founded.

SECTION V.

Of Rights Original.

PART II. CHAP. III. SECT. V.

THE ſubjects of original right, being coeval with man, muſt be limited to the conſtituents of his nature, or the common appurtenances of his kind.

Original rights are therefore perſonal, and expreſs what every one from his birth is entitled to defend in himſelf, and what no one has a right to invade in another.

Theſe rights may be modified by alienation or conſent ; but, prior to convention of any ſort, remain entire, and in one perſon exactly correſpond to thoſe of another.

The exiſtence of every ſuch right is ſelf-evident : It may be overlooked from inadvertency or deſign, but being once ſtated cannot be controverted.

Mr Hobbes in laying the foundation of his ſyſtem appears to have overlooked the original rights of the perſon : But if they had been ſtated to him, or if he had been aſked, whether every perſon in his ſuppoſed ſtate of nature had not a right to preſerve himſelf? or whether any perſon had a right to deſtroy his innocent neighbour ? it is difficult to conceive, that a perſon, who acknowledges the obligation of one man to keep faith with another, ſhould not acknowledge alſo his obligation to abſtain from any harm to his perſon.

SECTION VI.

Of Rights Adventitious.

PART II.
CHAP. III.
SECT. VI.

IN the term *adventitious* is implied a preceding period of exiſtence, however ſhort, in which the thing adventitious was yet future; a time in which it began to be, and a ſubſequent period of its continuance.

In the firſt period of man's exiſtence, he had his original rights; in a ſecond period thoſe rights may be modified by his own conſent, or new rights accrue to him from ſome act of his own, or the voluntary deed of ſome other perſon concerned.

Original rights are recogniſed upon being merely ſtated; adventitious rights require to be ſupported by evidence, in which the manner of their acquiſition is to be cited and conſidered.

When a perſon lays claim to the excluſive uſe of any ſubject, or requires the ſervice and obedience of other men, he may be aſked,

aſked, whence his right is derived? or by what evidence he is enabled to ſupport his claim? Such right, however fairly conſtituted, is ſtill matter of diſcuſſion, and the object of ſcience, in every ſuch diſcuſſion, is to aſcertain by what means a ſubject, not originally matter of right to any one, may become ſo to ſome one; or, in other words, if a claim ſhould be laid to any ſuch right, it is material to know by what evidence it may be evinced or ſupported.

As rights perſonal, agreeably to the definition which hath been given of them, for the moſt part are original, or coeval with the exiſtence of the perſon, ſo the rights real, ſuch as *poſſeſſion*, *property*, or *command*, are, for the moſt part adventitious, and may begin to exiſt at any period ſubſequent to the exiſtence of the perſon and the thing to which they relate; and, as both the perſon and the thing might have continued to exiſt, without any apprehended relation of one to the other, we are in the following ſections to enquire whence ſuch relation may have ariſen; how they are conſtituted, and how they are to be verified in any particular inſtance.

SECTION

S E C T. VII.

Of the different Sources of Adventitious Rights.

PART II. CHAP. III. SECT. VII.

BEFORE we proceed to affirm whence an adventitious right may arife, it is proper to obferve negatively, that it cannot arife from any act of injuftice or wrong; nor be conftituted where the thing is impoffible or not real.

Injuftice or wrong has reference to a perfon injured or wronged, who may defend himfelf; and to a perfon committing an injury, or doing a wrong, who, inftead of reaping benefit from his wrong, expofes himfelf to fuffer whatever may be neceffary to repel his injurious attempt; or whatever may be neceffary to obtain reparation of the harm he may have done.

This negative propofition were too obvious to need being formally ftated, if it were not neceffary to correct a common folecifm in language, by which we are told of the *right of conqueft*, arifing from a fuccefsful application of mere force, without regard

gard to the juftice or injuftice of the caufe in which that force was employed.

Where conqueft is matter of right, there muft be fuppofed a previous title to the fubject conquered; and, if fuch title be verified, the conqueft amounts to no more than a juft poffeffion obtained by force.

To this negative propofition, that right cannot arife to an injurious perfon from the wrong he has committed; we may fubjoin what is equally evident, that no title can arife to what is not poffible or not real.

Where either the thing or the perfon has no exiftence, there cannot be any relation. Upon this ground, we fhall have occafion to obferve, that although parties ftipulating what is impoffible may, by fuch proceeding, give rife to fome claim in the one againft the other, yet that there cannot be any obligation to the performance of any fuch article, however directly ftipulated.

In treating the hiftory of adventitious rights, there are two queftions which may be feparately difcuffed. The firft queftion relates to things which, prior to the origin of the right in queftion, had not become matter of right to any one*; and the object of fcience is to afcertain by what means a thing till then open to the firft occupier, may have become a matter of exclufive right to fome particular perfon. The fecond queftion relates to the transfer or conveyance from one perfon to another of a right previoufly fuppofed to exift in the perfon by whom the conveyance is made.

* Res nullius.

To the firſt of theſe queſtions we may anſwer in general, that things belonging to *no one* may become matter of right to *ſome one*, either by mere occupancy, or in conſequence of labour employed to improve or accommodate the ſubject to uſe. To the ſecond queſtion, we may anſwer, in like general terms, that a right may be conveyed from one perſon to another by *convention* or *forfeiture*.

We are, therefore, in the following ſections, to define the titles of *occupancy*, *labour*, *convention*, and *forfeiture*; and to apply the law of acquiſition, founded in theſe ſeveral titles, to the ſpecific rights originating in this law or determinable according to this rule.

SECTION

SECTION VIII.

Of Occupancy, and the Species of Right that may reſult from it.

OCCUPANCY is the relation of a perſon to a thing, ſuch, that no other perſon can uſe the ſame thing without moleſtation or detriment to the occupier. PART II. CHAP. III. SECT. VIII.

In this manner a perſon may occupy the unappropriated ground on which he repoſes himſelf, the ſpring at which he drinks, or the cover to which he has betaken himſelf as a ſhelter from the ſtorm. In any of theſe inſtances, an attempt to uſe the ſame thing may harm or moleſt the occupier. He may therefore defend himſelf againſt any ſuch attempt; or in other words, he has an excluſive right to the ſubject in queſtion, ſo long as he continues to occupy it, or retains his poſſeſſion.

This right, however, does not extend to the prohibition of any act by which the occupier is not any way diſturbed or aggrieved: So that the occupier cannot juſtly reſiſt another uſing the ſame thing

PART II. CHAP. III. SECT. III.

thing with himſelf, if this may be done without any detriment to him. Every one may breathe the air of the atmoſphere, enjoy the light and heat of the ſun, paſs on the highway, and navigate the high ſea with mutual freedom from harm or moleſtation.

The right that reſults from occupancy is no more than that of poſſeſſion, beginning and ceaſing with the act of occupying the ſubject to the extent deſcribed: So that, as this right does not extend to the prohibition of any act by which the occupier is not aggrieved, it evidently does not preclude any one from reſting on the ſame ground after the firſt occupier has removed from it; nor preclude a ſecond perſon from drinking of the ſame ſpring, after the firſt has ceaſed drinking; or from having recourſe to the ſame cover, after it has been abandoned by a former occupier.

As the effect of occupancy, therefore, ceaſes with the actual uſe, it does not amount to *property*, or to any right ſuppoſed to continue during the intermiſſion of ſuch actual uſe.

No right in one perſon to *command* the ſervices of another can ariſe from any title of occupancy, ſuppoſed to take place without the conſent of the perſon whoſe ſervices are required. To occupy the ſervice of another without his conſent, implies the uſe of force to obtain ſuch ſervice. Force ſo employed amounts to an injury; and inſtead of conſtituting a right, may be reſiſted on the moſt evident principles of the law of ſelf-defence.

It is juſtly held to be a public intereſt, that fair poſſeſſion in every inſtance ſhould be as little precarious as poſſible; and upon

this account mankind willingly enter into conventions, by which fair poffeffion of a certain duration is admitted as property. PART II. CHAP. III. SECT. VIII.

The duration of fuch poffeffion in the laws of different countries is termed prefcription, and was unequal in the jurifprudence of different nations, and in refpect to the occupancy of different fubjects. By the antient law of the Romans, refpecting fome fubjects, a fair poffeffion of three years amounted to prefcription. In our law and refpecting the fubject of land eftate, forty years fair poffeffion is required to the fame effect.

It is a maxim in the law of nature felf-evident and uncontroverted, that all fubjects unoccupied and unappropriated are open to the firft occupier. If, therefore, by the ftate of nature, it be meant to defign a ftate in which nothing is yet occupied or appropriated; or if we hold the negation of any right to be an equality of right, as if we fhould fay, that the dead are all equally alive, or that fuch as have nothing are all equally rich; the maxim of Mr Hobbes may be admitted, fo far as it relates to matters of adventitious right: "*That in the ftate of nature all men had* "*equal right to all things.*"

There could be no rule, by which to fettle any rights which did not exift; but, with refpect to the exifting rights of the perfon coeval with human nature, there certainly was an exifting rule, *That no one was entitled to injure or moleft his neighbour.* To this rule mankind have at all times reforted; and by this rule they have generally been governed, notwithftanding the occafional irruptions of force and violence. When they are at any time in a ftate of war, this proceeds not from the want of an amicable rule, by which to decide their differences, but from the influence

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of paffion or error, which inclines fome one or more of the parties to infringe the rule.

Mr Hobbes feems to make the ftate of war to confift, not fo much in actual hoftility, as in the want of any rule by which differences could be amicably terminated, and in the neceffary reference of parties to the decifion of force alone: But it is evident that the ftate of war thus defined did never actually exift; and that, in the midft of hoftilities feemingly the moft implacable, nations refer to a ftandard of right, according to which they plead that the quarrel fhould be amicably terminated in their own favour.

Mankind, in every ftate, not only had original rights of the perfon, but could not continue to exift without proceeding to occupy and poffefs the means of fubfiftence and accommodation; and without being engaged in tranfactions which amounted to fome fpecies of convention or bargain: So that the fuppofition of a ftate, prior even to the origin of adventitious rights, muft have been of fo fhort a duration as to refemble an abftraction of the mind, in which co exiftent circumftances are feparately conceived; rather than a period of hiftory, during which they actually exifted apart.

SECTION

SECTION IX.

Of Labour, and the Species of Right that results from it.

LABOUR, considered as the origin of a right, is an effort, by which a person may, for his own use, fabricate, procure, or improve any unoccupied and unappropriated subject. PART II. CHAP. III. SECT. IX.

It is evident that, by the law of nature, a person is not permitted to labour on a subject occupied, because his labour may be a detriment to the occupier; nor is he permitted to labour on a subject appropriated without the consent of the proprietor.

Under this title of labour is supposed an effort productive of some permanent effect, some fruit of invention, of skill, or of power any way applied; and the labourer having, by the law of nature, an original right to the use of his talents or powers, has, by evident consequence, a right to the effects produced by any of their applications.

PART II. CHAP. III. SECT. IX.

As the right of poſſeſſion continues during the continuance of occupancy, ſo the right acquired by labour continues together with the ſubject produced, and belongs to the producer, until he himſelf ſhall conſent to forego, or transfer it to another.

The right, therefore, which is thus acquired, comes up to the idea of property. It is a right, in the labourer, to the excluſive uſe of his powers, and of their lawful effects, even during the intermiſſions of that uſe.

The right acquired by labour does not determine with poſſeſſion: This may be diſcontinued during any period, and may be reſumed again: If the ſubject be moveable, and during any time miſlaid, it may be recovered wherever it is found; if in the poſſeſſion of another, that other may be lawfully forced to reſtore it.

It may be argued, however, that as the right of property thus originating in labour is limited to the actual effect which that labour has produced; and, as it is not in the power of man to produce any ſubſtance, he cannot by his labour acquire a property in any ſuch ſubject whatever. Human labour may combine materials together, or give to a ſubſtance ſome new modification or form; and ſo far the right of the labourer extends: But, as the ſubſtance itſelf is not an effect of his labour, whenever he ſhall ceaſe to uſe it, the ſubſtance ſhall be open to the firſt occupier.

If any difficulty be ſuppoſed to ariſe from ſuch ſubtilties of argumentation, it may be removed by obſerving, that, although the

the right of a labourer may extend only to the form, modification, or improvement, he has made, not to the ſubject or ſubſtance which exiſts independent of his labour; yet, if no one can occupy that ſubject or ſubſtance, without encroaching upon his right to the modification or improvement, it is evident, that, in defending his right to the modification, he may exclude every perſon from occupying the ſubſtance of which the form or improvement is his property.

The ſavage who has wrought a piece of wood into the form of a bow, in maintaining his right to the form, neceſſarily excludes every other perſon from the uſe of the wood. The huſbandman, who, in breaking up uncultivated land, has acquired a right to the fruits of his culture, muſt, in order to preſerve his right, exclude every other perſon from occupying the earth or ſtone of the ſoil to which his culture has been applied, although he has not in reality produced thoſe ſubſtances.

The plea of right reſulting from labour is limited to the right of property alone. When applied to any other ſpecies of right, whether a right of poſſeſſion, or a right to command, it is either not neceſſary, or not adequate. It is not neceſſary to conſtitute a right of poſſeſſion; nor is it adequate to eſtabliſh the claim of one perſon to a right in the ſervices of another.

Poſſeſſion is valid, becauſe the occupier muſt not be diſturbed, although he may not have beſtowed any labour on the ſubject in poſſeſſion. Labour, therefore, is not neceſſary to eſtabliſh this ſpecies of right.

As to the ſecond, or the right to *command*; if it be

PART. II. CHAP. III. SECT. IX.

afked, whether this may not refult from labour? We muft anfwer in the negative; for, although one perfon may have taken pains to qualify another for the performance of fome fpecific fervice; yet we muft contend, that no right to his fervice can be founded on this plea. Labour employed by one on the perfon of another, without his own confent, may be an injury, and cannot be the foundation of a right. If applied with his confent, but without any ftipulated conditions, the perfon to whom any new art is thus communicated, retains all his perfonal rights, and cannot juftly be forced to work for another. "If you taught me an art, might "fuch a perfon plead with his inftructor, without having ftipu-"lated that I fhould employ it for you, it muft be underftood "that I am free to employ it for myfelf." Gratitude may incline him to make fome return to a benefactor; but the demand of a return may cancel that obligation; and, in anfwer to fuch a demand, the apprentice may plead: "If you taught me an art, "that I might employ it for yourfelf, you cannot plead a benefit "intended to me, nor lay claim to my gratitude; or, if you in-"tended a benefit to me, you muft leave me to enjoy its fruits."

A perfon may innocently labour upon the property of another, without knowing it to be already appropriated. He may give a new form; he may compofe a mixture, of which the materials, either entirely, or in part, belong to fome other perfon. In all thefe inftances, the decifion of the law of nature is clear and peremptory, that no one is bound to fuffer a diminution of his right from the act of another, however free from guile or finifter intention.

As the party, acting however without guile or malice, cannot be charged with injuftice, the law of nature awards, that the

right

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right of any other party concerned ſhould be preſerved or reſtored, with the leaſt poſſible detriment to the fair and innocent dealer: And this is wiſely provided for, in the conventional law of every well ordered community. But the rule that is adopted, in adjuſting the relative claims of parties, on ſuch occaſions, may vary at the diſcretion of thoſe on whom the practice of law depends. According to the law of the Romans, property thus brought in to diſpute, was ſometimes made to follow the original ſubject, and ſometimes the ſpecification or form beſtowed upon it. When the materials, as in the caſe of bullion wrought into plate, could be reſtored to their priſtine form, the property was awarded to him to whom the bullion belonged. Where the ſpecification, or new form, was of a certain value compared to the ſubject on which a work was performed, as in the caſe of a picture, compared to the canvas on which it is painted, or in the caſe of a writing compared to the paper or vellum on which it is executed, there the material, from favour to the art which was practiſed upon it, was adjudged to be the property of the artiſt. Where ſubjects, belonging to two or more different perſons, were unwarily mixt by either of them, and could not be again ſeparated, it was awarded, that the mixture ſhould be divided among the parties concerned, in proportion to the ſhare of materials which each had in the compoſition or mixture; and the leaſt inconvenient manner of terminating a diſpute was, in this manner, intended, or provided for in theſe different inſtances.

Labour conſtitutes a right to property in the effect, which that labour has produced. Although there may have been labour, therefore, in any particular caſe, if there be no permanent effect, there is no ſubject of property. Mariners may have navigated the ſea; they may have traverſed new and unappropriated iſlands; but, if the land is no way changed by their labour; the earth, no more

PART II. CHAP. III. SECT. IX.

than the tracklefs ocean, can become a fubject of property to the perfon by whom it is merely traverfed.

It is neverthelefs a cuftom of fome ftanding, among the nations of Europe, to claim the dominion of newly difcovered lands or iflands, as founded in prior difcovery, and confirmed alone by fymbolical forms or acts of poffeffion; fuch as the erecting of columns, with dates and infcriptions recording the claim of the fovereign, in whofe behalf it is made.

So far as any number of nations have been in practice of claiming and acknowledging rights, founded in fuch forms as thefe, they muft be underftood to have entered into a fair convention refpecting fuch fubjects. A mere fymbolical occupancy is valid againft thofe who have repeatedly availed themfelves of the fame plea, and who are therefore come under an obligation to give way to it in their turn. It is a plea fufficient to exclude thofe who have agreed to be excluded by it, but not to exclude any ftranger who is not a party to any convention in the cafe, whether exprefs or tacit; much lefs a plea fufficient to deprive the native, however rude or barbarous, of the inheritance or poffeffion to which he is born.

The right of the claimant, therefore, among the nations of Europe, upon the ground of difcovery or fymbolical poffeffion, is matter of convention merely among fuch nations; and cannot be derived, either from the principle of occupancy, or the principle of labour, at leaft, until the fubject is actually occupied, or, from the labour beftowed upon it, has received fome actual change or improvement.

Such are the ways in which a ſubject, the right of *no one*,* may become the right of *ſome one*; either while he occupies it, or in conſequence of the effect he has produced in it by his labour.

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It remains, that we conſider by what means the right of one perſon may be transferred to another, as in convention or forfeiture.

* Res nullius.

SECTION X.

Of Contract, or the Principle of conventional Obligation.

Part II. Chap. III. Sect. X.

A Convention, or contract, is the mutual consent of parties to constitute, transfer, or reduce a right.

Where two or more persons, therefore, are consenting to the same or to mutual articles of agreement, they come respectively or mutually under the obligation of contract.

This obligation, in the case of mutual consent, is universally acknowledged, or universally pleaded by those who exact the performance of a bargain: Insomuch, that even they who overlook every other foundation of right, acknowledge compact as sufficient to support all the claims of justice in civil or political society.

The obligation of compact, therefore, must either be self-evident, or must be derived from some very obvious and self-evident

 principle.

principle. Mr Hobbes denies the exiſtence of any right prior to convention; but, it moſt be owned, that if in this, his opinion bears hard upon human nature, in denying the original rights of men, he is exceedingly prompt to ſuſtain the effect of convention in creating every right which men have occaſion to plead in ſociety; and his proceeding is to the following purpoſe.

The firſt requiſite, according to him, in eſtabliſhing any principle of law with which men are bound to comply, is: "That every "man diveſt himſelf of the right he hath to all things by nature *; "or, as he himſelf interprets, the ſuppoſed right of all men to "all things, it being in effect, as he acknowledges, no *better than* "*if no man had a right to any thing* †." The firſt requiſite, in eſtabliſhing a law of nature, is, that all men conſent mutually, that for the future there ſhall be ſuch a thing as *right*; "but," continues he, "as this conſent were utterly vain and of none effect, if this "alſo were not a law of the ſame nature, that every man is ob-"liged to ſtand to and perform theſe covenants he maketh ‡;" it appears neceſſary to eſtabliſh this obligation in general, before the conſent of parties can be ſuppoſed to eſtabliſh it in any particular inſtance.

The breach or violation of covenants, according to this celebrated writer, is the *firſt ſpecies of injury*; but, to a perſon who denies the previous exiſtence of injury, in the harm that may be done to the perſon of a man; it may be difficult to ſhow how injury commences in this form, and no other. If he deny that, prior to convention,

* De Corpore Politico, Part 1ſt, Chap. iii. Sect. 1.

† Ibid. Sect. 2.

‡ Ibid. Chap. iii. Sect. 1.

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convention, there is any obligation to abſtain from harm; if he admits that the violent may wound with his ſword; that the inſidious may enſnare with his cunning; why not that the faithleſs may, to procure an advantage to himſelf, betray the confidence he has been able to obtain.

To ſolve this problem, he has recourſe to the following proceſs of reaſoning: *Not to perform what is contracted for, being what all men call an injury*, he proves performance to be binding, *becauſe non-performance is an abſurdity in action, as ſelf-contradiction is an abſurdity in argument*: " For, as he which is driven to contradict " an aſſertion by him before maintained, is ſaid to be reduced to " an abſurdity, ſo he that through paſſion doth or omitteth that " which before he promiſed to do, or not to omit, is ſaid to com- " mit injuſtice, and there is in every breach of covenant a con- " tradiction ſo called.—He that violateth a covenant, willeth the " doing and not doing of the ſame thing at the ſame time, which " is a plain contradiction *."

Here, it muſt be confeſſed, the argument is diſtinctly ſtated; the obligation of contract, and with it, according to this author, all the poſitive rights of men, are made to reſt on the merit of conſiſtency, in preference to inconſiſtency or ſelf-contradiction. It were irrational to ſay and unſay the ſame thing; therefore, rational beings are bound in their actions to be conſiſtent with their ſayings; that is to ſay, *they are bound to obſerve their contracts*. To do otherwiſe, would be to unſay in their actions, or in neglect of performance what they had previouſly ſaid, in terms of a bargain, or in expreſſions of conſent.

Such

* Ibid. Sect. 2.

Such reaſoning but ill accounts for the indignation with which a breach of faith is univerſally conſidered by mankind. He who breaks faith may incur the charge of inconſiſtency it is true; but how different from the charge of *perfidy* or *treaſon*. The traitor next to the murderer is reckoned the moſt odious among criminals, and the argument now ſtated from Mr Hobbes is the leſs fit to ſupport the obligation of contract, or to account for the ſentiments with which breach of faith is reprobated, that it would equally apply to evince an obligation where none is admitted, and to fix a criminal imputation where the paſſions relent; and where a perſon once inclined to the commiſſion of a crime ſhrinks from guilt and returns to innocence.

Thus, upon the principle of conſiſtency, as ſtated by this author, a perſon having once expreſſed an intention reſpecting a matter in which he himſelf alone is concerned, would be bound to fulfil his intention, whatever reaſon or conſideration may have occurred to the contrary. If a perſon, for inſtance, has one propoſed in his own mind, or mentioned in his talk an intention to carry his goods to market, he is no longer at liberty to withhold them. If he has threatened to kill his neighbour, his benefactor, or his parent, he is not at liberty to retract or to change his mind. In any ſuppoſed caſe of this ſort, however, mankind would conſider the threat as a crime, and the failure of performance, not as a breach of faith, but as the relenting of a mind which had yet ſome remains of ingenuity, a ſenſe of innocence, and ſome diſpoſition to atone for the guilt of having ever entertained ſo atrocious a purpoſe.

In this account of moral obligation collected from the ordinary

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ſenſe of mankind, we find a clear apprehenſion of right and wrong prior to convention. We find an acknowledgment, that convention itſelf may be wrong; the completion of it worſe; and the breach of it right. As he who has engaged or bargained to commit a murder incurs a certain meaſure of guilt in the bargain he has made; this meaſure of guilt he would greatly augment by preſerving conſiſtency, or by proceeding to fulfil his bargain; and under ſuch an unhappy engagement his duty manifeſtly is to become inconſiſtent, and to decline the performance.

Some writers who have employed their ingenuity to a better purpoſe, and who think more favourably of man's phyſical ſtate than the laſt we have mentioned, ſeem willing, neverthelefs, to reſt the obligations of men in ſociety more upon convention than is neceſſary; and to reaſon from this topic of contract, in caſes to which the great injunction of natural law to abſtain from harm is at leaſt equally obvious and equally applicable.

Society itſelf is by ſuch writers conſidered as the reſult of a bargain, and the relative duties of men in ſociety are traced up to a ſuppoſed original compact, on the articles of which volumes have been written*. The intention of writers, in this form of their argument, is no doubt favourable to mankind, and the hypotheſis of a conditional obligation is by them recurred to, merely in order that none of the parties in civil ſociety may pretend a right to enjoy his peculiar advantage, without fulfilling alſo the condition to which he is peculiarly bound, or without contributing what is due from himſelf, in return for what he expects to receive from another. Thus, allegiance and protection being ſtated, as the reciprocal

* Vide Contrat Social of Rouſſeau.

ciprocal ftipulations of magiftrate and fubject, the one is not to expect allegiance, without adminiftring protection, nor the other to expect protection without the proper returns of allegiance and duty. PART II. CHAP. III. SECT. X.

Were we to enumerate all the obligations of men in fociety, we fhould find many, no doubt, which arife from convention exprefs or tacit; but, it is far from being neceffary or expedient to refer the whole to this title. The obligation to abftain from harm, and the right of every individual, to the utmoft of his power, to defend himfelf and his fellow creatures, are prior to convention, and are indeed the foundation upon which conventional obligation itfelf is eftablifhed.

Whoever has power may employ it in defending the innocent; and fo far, the magiftrate having the fword in his hand need not enquire whether the criminal that offends againft the peace of his country, has agreed to abftain from crimes, or has agreed to fubmit to punifhment. In repreffing the crimes, and in giving examples to deter others from the commiffion of them, the magiftrate does no more than what every other perfon, prior to convention, and to the extent of his power, is entitled to do.

But, when the magiftrate affumes to himfelf alone the prerogative of employing force for the repreffion of crimes; when he tells the injured, that he muft not attempt to do himfelf right, but muft have recourfe to the protection eftablifhed by law; when he requires the fubject to part with his fubftance, to defray the expence of a public fervice; when he affumes the right to pofitive command, in requiring the innocent to ferve his country, as well as in requiring the injurious to abftain from harm; there, no doubt, he muft be able to plead a fpecial inftitution or convention, to which the people have agreed.

Laws

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Laws and inſtitutions, in every community, contain articles of agreement entered into by the parties with whom they originated, and by their poſterity who accede to them; but ſuch agreements are all of them poſterior to the exiſtence of ſociety, and not the foundations upon which ſociety was originally erected. The eſſential obligations of men in ſociety are founded in what nature has done for them, not in what they themſelves have agreed to perform; and ſuch obligations can receive no confirmation or ſanction from the ſuppoſition of a contract which is merely fictitious, or which did not exiſt.

The humane author of the treatiſe on crimes and puniſhments *, founding even the right to puniſh crimes on a ſuppoſed original compact, and applying a well known maxim of law, that compacts are to be ſtrictly interpreted, denies any right in the magiſtrate to inflict puniſhments more ſevere than are neceſſary to obtain the purpoſe for which parties contracted; that is, more ſevere than is neceſſary to reſtrain crimes, and to keep the peace of ſociety. For this being the object of parties in forming their compact, ſo far, he argues, every perſon in ſociety may be ſuppoſed to have acceded to the contract, and no farther. This, however, is no more than a circuitous way of aſſerting, that the ſtate or its magiſtrates have no right to puniſh any crime, farther than is neceſſary for their own defence, or the defence of the cauſe entruſted to their charge; a maxim that does not require conſent to make it binding, but is implied in the firſt principle of natural law, which limits the means of defence within the bounds of what is neceſſary for the preſervation or recovery of a right.

* The Marquis Becaria.

If we muſt admit the ſuppoſition of an original compact, like a bond of copartnery, conſtituting the foundation of ſociety, and the firſt charter of rights to its members; as there is no record of the articles originally framed, theſe muſt now be inferred from the principles of natural right; for we have no other ſource from which to derive information of what men were likely to have ſtipulated or agreed to perform in a period of which no veſtige remains.

In the firſt treaty of peace, by which men agreed to live in ſociety together, we are told, accordingly, that they muſt have ſtipulated to abſtain from harm. But whence this information, we may aſk? Not from the record of any ſuch ſtipulation! Nay, but it may be aſſumed from the manifeſt equity and reaſon of the ſuppoſed article. This is, firſt, to alledge that a perſon is bound to be juſt, becauſe he has bargained to be ſo; and, next, to preſume that he has bargained to abſtain from harm, becauſe it is juſt that he do ſo.

If we are to ſuppoſe, with Mr Hobbes, or as is, in ſome meaſure, implied in his reſting all the obligations of men in ſociety upon a ſuppoſed original compact, that there is no right and no obligation prior to convention; it will be difficult, ſurely, as the example of Mr Hobbes himſelf will ſhow, to find a foundation upon which the obligation of contract itſelf may reſt. If contract be the ſole foundation of right, all that is commonly ſaid of an inherent right in every perſon to defend himſelf, or of an obligation correſponding to this right on every perſon to abſtain from harm, muſt be renounced. The diſtinction, ſuppoſed between rights original and adventitious, muſt be dropt. All the rights of men, whether perſonal or real, are adventitious, and begin with

PART II. CHAP. III. SECT. X. with the confent of one man not to difturb the poffeffion of another; and, in fhort, no man is obliged, even in the lateft hour of fociety, to abftain from harm, except fo far as by fome fpecies of compact he has bound himfelf fo to do.

Such confequences, however, are fufficiently abfurd to juftify our rejecting the principle on which they are founded; and are probably far from the thoughts of many, who affume the focial *compact*, as a *fiction of law*, upon which to reft their decifions in particular inftances. To this principle, at any rate, we cannot have recourfe in fixing the grounds of conventional obligation. That a compact may be binding, we muft fuppofe fome previous foundation upon which its obligation may reft, whether the confiftency to which Mr Hobbes refers, or the original right of every perfon to defend himfelf, to which we have fo often referred in thefe difquifitions.

If the rule that forbids the commiffion of harm, or the principle of nature, on which is founded a right of defence, can be applied to the cafe of parties, fo far pledging or accepting a *faith* which is pledged to them, as that, by the breach of this faith they may injure or be injured; it will follow, that they ought to refrain from that injury; or may repel it, by obliging the party contracting to fulfil the terms of his contract.

By the law of nature, every party may defend his eftate from every invafion that is made to impair it. Of the ftate which may be thus defended, men derive part from the hand of their Maker, which is accordingly to them matter of original right; part from their own act and deed, as in the cafe of occupancy or labour, already recited; and we may now fubjoin, that they

derive

derive part of their ſtate alſo from the engagements in which others are bound to them; or from the faith that others have plighted. PART II. CHAP. III. SECT. X.

The ſervant is ſecure in the engagement of a maſter to pay his wages; the maſter relies for his accommodation on the engagement of the ſervant to do his work. The landlord is rich in the engagement of tenants to pay his rents; the tenant beſtows his labour, and ſcatters his ſeed, truſting to the leaſe he has received from the landlord. Even the miſer himſelf, who is diſpoſed to hoard up his wealth, may not have a ſingle penny or article of value in his poſſeſſion. He is rich in the capacity merely of a creditor, and in holding others obliged to pay the principal and intereſt, in which they are indebted by bond to him.

Such credit, in one man towards another, is a part of their ſocial nature; and the perſon who is diſpoſed to abuſe his credit may wound or deſtroy, by means of that inſtrument, no leſs than by the arm of violence, or the ſword which he wields in his hand.

If it be admitted, that men are by nature diſpoſed mutually to give and to receive information; that where they have no ſpecial cauſe of diſtruſt, they rely on the informations, aſſurances, or promiſes which they receive from others; and that great part in the conduct of every perſon is determined by informations or aſſurances ſo received. If the bewildered traveller, in the dark, turns confidently to the right, when he is told that there is a precipice on the left, it muſt evidently follow, that to miſlead him, or to occaſion his harm, by any miſinformation, would be equally criminal, as to occaſion that harm by any other means.

Hence

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Hence we may conclude, that a perſon being made to rely on the conſent of another, to conſtitute or to reduce a right, is not bound to ſuffer by the other's breach of faith; but may proceed on the principle of ſelf-defence, to force the performance of a promiſe which makes a part of his ſtate; and the principle upon which a perſon, who has come under any engagement, may be forced to fulfil that engagement, is the ſame with that maxim, on which he may be forced to abſtain from injury, or harm of any other kind; inſomuch, that the firſt principle of compulſory law, which is in appearance merely prohibitory, may branch into a variety of duties or obligations *to do*, or *to omit* to do, whatever may be a fit matter of ſtipulation betwixt any two or more parties concerned.

To fail in the diſcharge of ſuch duties is, on many occaſions at leaſt, termed *perfidy* or *breach of faith*, and conſidered with a higher degree of abhorrence, than even the injuries that are done by open force. This may, no doubt, proceed from circumſtances peculiar to fraud and deceit. The traitor muſt have carried the maſk of innocence to have obtained credit; he has ſtolen an advantage which he had not the courage openly to force. The contraſt of fraud with the maſk of innocence, which it wears, the cowardice which is imputed to the perſon who aſſumes that maſk in order to wound, combine together in awakening the peculiar ſentiment of indignation and hatred, with which perfidy or breach of faith is conſidered; and which, though they do not make any addition to what is at preſent the object of our diſcuſſion, namely, the right of every perſon to defend himſelf againſt ſuch wrongs; yet they

they tend greatly to evince that the ſource of conventional obligation is much more deeply laid than the mere conſiſtency of words and actions, upon which it is founded by the philoſopher now mentioned.

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SECTION XI.

Of the Laws of Convention derived from the foregoing Principle.

PART. II. CHAP. III. SECT. XI.

FROM the account which has been given of conventional right and obligation, it appears that compaćt, in every inſtance, implies a plurality of parties, one at leaſt who comes under an engagement, and one or more to whom the engagement is made, and who accept of it. The firſt may be termed the party *contracting*, the other the party *accepting*.

In many bargains, the parties may be mutually contracting and accepting; as when one party binds himſelf to convey a property, accepting a price, and the other binds himſelf to pay the price, accepting the property. But it is not, at preſent, or in the proſecution of this argument, neceſſary to conſider the parties to a compact in this double capacity.

From the principle ſtated, it is evident, that to give a ſuppoſed compact the effect which we have aſcribed to it, in conſtituting a

a right, on the part of one, or an obligation, on the part of another, it is neceſſary that the accepting party ſhould be made to expect a performance, and that the contracting party ſhould have intentionally done ſomewhat ſufficient to give ſuch expectation.

Without an expectation formed, there is no object of exaction; and, without a perſon who has intentionally given cauſe for that expectation, there is no one againſt whom the exaction may be enforced.

Agreeably to this deciſion, it appears, that, although the contracting party may have done what was ſufficient to create an expectation, yet if the other party ſhould not, at the ſame time, do what is ſufficient to make known his acceptance, there is in reality no obligation to perform.

The tranſaction, upon this laſt ſuppoſition, amounts to no more than an offer; and, as the party offering has no intimation of its being accepted, he is at liberty to change his mind, or may have recourſe to ſome other party willing to accept of the offer he has made.

It follows, alſo, that as a ſuppoſed contracting party is not bound to performance, where acceptance is not ſufficiently notified, no more is he bound to fulfil any falſe expectations for which he has not laid a foundation.

Upon the principle of convention, ſo explained, we may ground the following law:

That, *To conſtitute a valid contract, is required the mutual conſent of parties, acting freely, and in the exerciſe of their rational faculties;*

and with ſuch means of communication as are ſufficient to make known their thoughts and intentions.

In the municipal law of different countries, the forms of convention are preſcribed, as in *bonds*, *bills*, or *promiſſory notes*, which conſtitute a debt; *deeds of conveyance*, *articles of ſale*, and ſo forth. So that, upon the diſagreement of parties, the queſtion at iſſue may be determined by a third party; that is, by the judge before whoſe tribunal the reality of the obligation may come to be tried, and who muſt collect the ſenſe of parties from the form in which they were pleaſed to expreſs their agreement. But, as the preſcribed form may ſometimes have been obſerved, where there is nevertheleſs ſufficient cauſe to ſet aſide the contract, ſuch cauſe may be taken into conſideration, under the title of an exception, and is often ſufficient to repel the plea of the party, who claims the performance of an article, however ſtipulated in the legal form.

Such exceptions, in the municipal law of any country, are or may be enumerated under the titles of *incapacity*, *force*, *fraud*, *injuſtice*, and *impoſſibility*.

Incapacity may be pleaded againſt the validity of an obligation, when it appears, that the party, ſuppoſed to have conſented, was not in the exerciſe of his reaſon at the time. *Force* may be pleaded, when he was known not to act freely; and *fraud*, when he was known to be deceived; more eſpecially if the force or the fraud had been employed by the perſon who afterwards claims performance of the article ſo obtained.

Theſe exceptions are matter of juſt and neceſſary conſideration in courts of law, as a judge, if directed merely by the forms

preſcribed,

prefcribed, might be mifled to fuftain an obligation where it is not properly conftituted. But, in difcuffions of the law of nature, where a contract is fuppofed to confift, not in any prefcribed form or mode of expreffion, but in the mutual affent of parties, acting freely and in the exercife of their reafon, the exceptions of force and fraud are precluded in the definition itfelf; and, where the fact does not correfpond to the definition, what we contend for is not an exception, by which to fet afide a contract fuppofed to fubfift, but is a negative plea, by which we deny that any contract ever did exift.

The infane or incapable can raife no expectation. A perfon forced or deceived into a bargain, cannot be expected to fulfil that bargain, when he is at liberty, or has detected the fraud that was employed to miflead him. He may confider the perfon who employed fuch means to circumvent him, as guilty of an injury; and may think himfelf entitled to reparation, inftead of being bound to perform the articles of a bargain fo obtained.

There may, however, be a real affent of parties to an article of compact which may afterwards appear to be either injurious to the right of fome third party, or in the nature of things impoffible; and in every fuch cafe, there is a real ground of exception, even upon the general affumptions of the law of nature.

The exception of *injuftice* may be pleaded to ftop execution of an article injurious to a third party, and that of *impoffibility* to fave the party contracting from fruitlefs attempts to perform what cannot be done.

Under thefe titles of *injuftice* and *impoffibility*, confidered as exceptions to a contract, a variety of cafes may be fuppofed.

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1*ſt*, That neither party, at the time of ſtipulating, was aware of the *injuſtice* or *impoſſibility*. In this caſe the deciſion is, that both parties are bound to drop their petenſions as ſoon as the exception is known.

A ſecond caſe may be ſuppoſed, where only one of the parties, at the time of ſtipulating, knew of the exception. If the contracting party alone knew that he was engaging himſelf to commit an act of *injuſtice*, he is injurious to the party againſt whom the wrong is directed. If he alone knew that the performance was *impoſſible*, he is unjuſt to the party accepting, in whom he has endeavoured to raiſe a vain expectation.

If the party accepting alone, knew that the performance would be unjuſt, he is, in accepting the offer, injurious to the party likely to ſuffer. If he alone knew that the performance to which he engaged another, was in the nature of things impoſſible, his acceptance of ſuch engagement was an injury to the perſon whom he induced ignorantly ſo to engage himſelf in fruitleſs attempts.

A third caſe may be ſuppoſed in which both parties knew of the exception at the time of making their agreement. If the article ſtipulated was by both parties known to be injurious to a third party, the agreement amounted to a conſpiracy againſt the perſon concerned. If the article was known by both parties to be impoſſible at the time of ſtipulating, there may have been a purpoſe, by ſuch ſham tranſaction, to impoſe upon ſome third party, or elſe the proceeding muſt be judged altogether irrational and abſurd.

In every contract muſt be ſuppoſed a ſufficient mode of com-
munication

munication between the parties. *Language*, whether in ſpeech or writing is the moſt common, but any other means of expreſſion, ſuppoſed to be mutually underſtood, will be equally ſufficient upon the principles of the law of nature, to eſtabliſh a conventional, *obligation*, or *right*; geſtures of any ſort underſtood as ſigns of declaration or aſſent; a continued courſe of action; even ſingle actions may, upon this principle, not only be conceived to expreſs a meaning, but are actually ſuſtained as ſufficient expreſſions of aſſent before the courts of law in every civilized nation.

Hence the effect of cuſtom every where admitted as part of the common or the municipal law. Hence the obligation contracted by a ſhopkeeper, to ſell the goods in his ſhop to thoſe who will pay his price, and the obligation of a perſon who takes the goods, to pay that price. Hence the obligation of an inn-keeper to accommodate paſſengers; and the obligation on paſſengers to pay their bill; although neither one nor the other made any verbal declaration to that effect.

In the ordinary courſe of things, we look to the future as a continuation of the paſt, and conſider the cuſtom of the country in which we reſide, as an aſſurance of the terms on which we live with the people of that country.

It is evident in particular, that cuſtom may be pleaded againſt thoſe who take the benefit of it, where it is favourable to themſelves; and who, therefore, may be reaſonably ſuppoſed willing, in their turn, to comply with it, where it is favourable or beneficial to others.

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In this manner conventions are tacitly formed, and the laws of every country confifts more of cuftomary practice, eftablifhed by repeated decifions, than of ftatute or exprefs conftitution of any fort.

It is a maxim of natural juftice, that every party obferving a cuftom, in thofe refpects in which it is burdenfome to himfelf, is entitled in his turn to expect the obfervance of it alfo in thofe refpects in which it is beneficial. A perfon bearing the public burdens of the ftate, is entitled to its protection ; and a fovereign, granting protection, is entitled to allegiance and fupport.

Convention, though not the foundation or caufe of fociety, as implied in the *term* of *original compact*, may be fuppofed almoft coeval with the intercourfe of mankind. Men do not move in the fame company together, without communications of mind or intention. Thefe communications become objects of mutual reliance, and even that party may be charged with breach of faith who has belied the expectations he gave by his amicable looks or pacific behaviour. From the firft fteps, therefore, that are made in fociety, conventions may be fuppofed to go on accumulating in the form of practice, if not in the form of ftatute or exprefs inftitution.

Political eftablifhments, in many inftances, originate in force, and prerogatves are affumed which in the firft exercife of them were manifeft violations of right. Men neverthelefs in procefs of time, or at leaft in the fucceffion of a few ages, acquire the habits of their fituation ; and fucceeding generations may be reconciled to forms that were forced on their anceftors. They adopt as a cuftom, and willingly fubmit to conditions which owed

ed their firſt impoſition perhaps to violence. In ſuch caſes, we are not always to look back to the origin of a cuſtom or practice, in order to judge of its validity. If it be ſuch as the mind of man may by habit be reconciled to, and willing to adopt, it becomes binding on thoſe who have availed themſelves of the cuſtom, where it is favourable to themſelves; and are therefore fairly underſtood to adopt the conditions of it, where theſe conditions are reciprocally favourable to others.

Succeeding generations of men are ſuppoſed to be comprehended under certain legal eſtabliſhments, by the deed and inſtitution of their anceſtors. This is not ſtrictly true. Every citizen, as he comes of age, enters upon a ſcene which his anceſtors had prepared for him, but of which the conditions as binding on him cannot be ratified by any one beſides himſelf. He mixes in ſociety, where theſe conditions are already ratified by others; and he himſelf in complying with them, and in reaping the benefit of them, gives ſuch aſſurance of his willingneſs to accede to the terms already preſcribed in his country, as amounts to a ſufficient ratification of the ſame terms on his own part. So that citizens, in every regular community, are bound, not by the inſtitution of their anceſtors on which they were not conſulted, but by the conſent which they themſelves have given, by availing themſelves of the benefits which reſult from ſuch inſtitutions.

To the queſtion, therefore, whether perſons of one age can bind their poſterity in ages that follow? we may anſwer in the negative: But ſucceeding ages, nevertheleſs, become bound in acceding to the terms on which they live with their fellow citizens.

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In judging of an inſtitution, we may repeat, that we are not ſo much to look to its origin as its actual nature. Compliance extorted by force does not amount to convention; but juſtice itſelf ſometimes needs to be enforced, and the wiſeſt inſtitutions, at the time of their firſt admiſſion, may have been the fruits of compulſion: But, if in the ſequel, an eſtabliſhment be found acceptable, and favourable to the intereſts of mankind, they do well to abide by it, and, while they do ſo, no individual can remain in his country, and take the benefit of its laws, without being bound to obey them in his turn.

Thus, it becomes evident, that as it were abſurd in ſcience, like Mr Hobbes, to overlook the original rights of men; ſo it were no leſs abſurd, like viſionary theoriſts, in any queſtion of law or ſtate, to refer to mere original rights, as the ſole ground of deciſion. It were abſurd, after a perſon had bought an eſtate, to reject the conveyance that was made to him, in order to judge of his title, on ſuch principle of right merely as may be ſuppoſed to precede the inſtitution of property.

But, if want of conſent, in one age, will not preclude the obligation of compact on ſucceeding ages, or on thoſe who in the ſequel voluntarily accede to a practice, no more will the conſent of anceſtors, with whom a practice originated, bind their poſterity, or thoſe who in the ſequel refuſe their aſſent; and, if an inſtitution, however willingly adopted by a former age, prove in the ſequel a mere abuſe; if it be a continued exerciſe of injuſtice and wrong, ſupported by force on the one part, and a continued ſeries of ſuffering and reluctant compliance on the other; ſuch practices, however long continued, as they are never ratified by conſent, they are never eſtabliſhed on the foot of cuſtomary

 practice,

practice, nor do they obtain the force of convention. The oppreffed, even after any indefinite period of oppreffion are free to procure relief by fuch means as they are enabled to employ for that purpofe.

 SECTION

SECTION XII.

Of the specific Obligations and Rights that result from Contract.

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MEN may bind themselves by contract to do, or to omit to do, whatever is within the compass of their will, and not contrary to the right of any other person; *but* in matters, concerning one person, which no way depend on the consent of another, compact were misplaced, and cannot have any effect.

In seizing upon things which are open to the first occupier, the consent of others is not required; or, in other words, the right of possession results from occupancy alone, apart from any consent.

Possession is short of property; because, if the possessor should cease to occupy a subject, he has not any right to exclude another from its use. When relinquished, it is open again to the first occupier, whether the person who formerly possessed it, or any one else.

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This defect, in the right of poffeffion, may be in part fupplied by the confent of all the parties, who had accefs to the fubject, at the time it has ceafed to be occupied. And thus, a right of property in one perfon, may be pleaded againft all thofe who confented to forgo their right of occupancy. With refpect to fuch as confent to the property, it is matter of convention; and the perfon, in whofe favour they have given their confent, has fo far acquired an exclufive right, that, upon any difcontinuance of the ufe, he may refume it, or even recover his fubject, if found in the poffeffion of thofe who refigned their right of occupancy in his favours.

But this right, which is exclufive with refpect to thofe, whether few or many, who have confented to exclude themfelves, can never of itfelf amount to an abfolute property, or be exclufive with refpect to all mankind.

Were we therefore to admit the principle affumed by Mr Hobbes, that originally all men had equal rights to all things, and that compact alone could give exclufive right to any thing, it fhould follow, that univerfal confent was neceffary to give abfolute property, or to conftitute a right fpecial and exclufive in any one to the fole ufe of the fubject to which he laid claim; and we might infer, on the fame principle, that, as no fuch univerfal confent has ever been obtained, no right of property is yet fully conftituted: Moreover, that as fuch univerfal confent never can be obtained, we might alfo infer, that the exiftence of a right, in any one perfon exclufive of all other men, is impoffible, and that men ftill remain, and muft for ever remain, in that original ftate, in which *all men had an equal right to all things*; and are actually in a ftate of war, to which they are condemned by the want of any amicable rule by which to adjuft their differences.

Although

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Although the idea of univerſal conſent be altogether viſionary, yet no one will deny that there is ſuch a right as property, which may originate in the labour beſtowed upon a ſubject unoccupied and unappropriated. And that when property has thus accrued to any one, it may by compact be conveyed to any other, and continue to paſs through any indefinite number of hands.

With reſpect to property, therefore, the effect of compact is not the inſtitution of a right, but the conveyance from one to another of a right previouſly inſtituted.

Property determines on the death or dereliction of the proprietor. In either caſe, the ſubject is open to the firſt occupier.

Among rude or ſavage nations, property being attached, for the moſt part, to moveable articles, as *arms*, *furs*, *dreſs*, or *utenſils* of any ſort; and the principal ſign of property being the actual uſe of the ſubject in which it is conſtituted, ſuch articles, when found in the abſence of any perſon who claims the uſe of them, are readily treated as *res nullius*, or as things open to the firſt occupier. Hence, much of the rapacity or injuſtice which is imputed to men in this ſtate.

A conveyance of property implies dereliction, but is not complete, without delivery into the hands of the perſon, in whoſe favour the conveyance is made. Were a ſubject merely relinquiſhed, it would become open to the firſt occupier. The perſon, for whom the property was deſtined, might have an action againſt the former proprietor for not fulfilling his deed of conveyance; but

but not againſt a third party, who, proceeding to occupy the ſubject relinquiſhed, had not come under any obligation to deliver it to him.

Upon this ground it is obſerved, that the mere law of nature will not ſupport a legatee, in claiming the poſſeſſion of an inheritance from any third party, who may have occupied it on the death of the teſtator.—His action could lie only againſt the perſon, whoſe conſent he could plead; but that perſon is no more, and, upon his demiſe, the ſubject in queſtion became open to the firſt occupier, who may not have conſented to put the ſuppoſed legatee in poſſeſſion.

But ſuch queſtions, in the ordinary courſe of things, are for the moſt part precluded. Even among rude nations, where property is leaſt eſtabliſhed, the family of a perſon deceaſed are naturally the firſt occupiers of his effects; and inheritance gets a footing, not upon any principle of right excluding the firſt occupier, but upon a principle of fact, that the family of the deceaſed are, for the moſt part, actually in poſſeſſion.

Among nations more advanced in the progreſs of property and of arts, the will of a perſon deceaſed is admitted as a ſufficient ground of conveyance to the legatee. This favour is due to the induſtry, with which property is acquired; and it has a ſalutary tendency, among commercial nations, to reward and encourage that induſtry. Upon this footing, the effect of a laſt will is derived from convention, ſuch as the living have admitted; not from the deſtination of a perſon who is no more, and againſt whom no action at law can be raiſed.

A claim of right, founded in compact, is valid only againſt the party

party *contracting*; and the right pertains only to the party *accepting*. Such only as have at once a right, in the ſubject of compact, and power to diſpoſe of it, are competent to an effectual act of conveyance.

As every perſon may perform what *ſervices* he thinks proper, and has power to diſpoſe of his ſervices by previous conſent; *perſonal ſervice* is the principal and immediate object of conventional obligation.

The *right to command* we have obſerved, cannot ariſe from *occupancy* or from *labour* beſtowed. It may ariſe by *conſent* ſo far as one perſon may, by compact, bind himſelf to obey the commands of another. Thus the artizan has right to the ſervice of his apprentice upon the ground of his indenture. The maſter has a right to the labour of a ſervant he has hired, and perſons ſtipulating the performance of any taſk or the ſupply of any commodity, have a right to all the effects of their contract.

In the ſame manner, we are told that the right of government is founded in the *conſent of the people*; and this though true in many reſpects is not true in all. It is true in reſpect to all the poſitive ſervices and contributions due from the ſubject. If in theſe the rights of government are queſtioned they muſt be evinced on the principle of *convention expreſs* or *tacit*: For on that principle alone the right of command can be eſtabliſhed. The conſent of thoſe by whom government was firſt acknowledged is frequently expreſſed in formal capitulations, charters or ſtatutes; and the conſent of thoſe over whom it continues to be exerciſed, though tacit, is no leſs real from age, to age in the continued acceptance of protection in return for allegiance and political duties. But a

right

right to protect the innocent or to reftrain crimes, which the magiftrate by his power, alone, is in condition to exercife, he is likewife entitled to hold on the principle of the law of defence alone, and need not recur to any fuppofed confent of the people to abftain from crimes.

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Amidft the relations in which mankind are placed, by agreement either exprefs or tacit, it may be afked, whether upon the principles of the law of nature the relation of mafter and flave, can be juftly admitted?

This relation is underftood to be the fame with that of proprietor to the fubject of his property, * and feems to have originated in violence or force, and not in confent. Barbarous nations make war to enflave their captives, and difpofe of them at market, like cattle or other fubjects of property.

Violent inftitutions, we have obferved, if they be fuch as men in the fequel are reconciled to, and willingly adopt, may become matter of fair convention and be eftablifhed in cuftom. How far the inftitution of flavery may come under this defcription is the queftion which we are now confidering.

It cannot be doubted, that perfons may be found under the denomination of flaves, as much in appearance reconciled to their ftate, as men are ever obferved to be in any other condition of life:

* In the language of the Roman law a flave was faid to be a *thing* and not a perfon. *Servus non eft perfona fed res.*

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life: Shall we therefore ſuppoſe them to have given their conſent to ſervitude in the full extent of that term?

To this queſtion, we may anſwer in the negative, for manifold reaſons.

Firſt, If the nominal ſlave may in fact be reconciled to the ſpecific command or treatment he has experienced; and, if he be ſuppoſed by tacit conſent to have agreed to ſubmit to ſuch treatment, the maſter muſt be ſuppoſed alſo to have agreed not to change that treatment for any other. The ſlave has not yet experienced, nor has the maſter yet attempted, all the uſes that may be made of a property; and what has not at all been practiſed, cannot be juſtified upon the foundation of cuſtom. What has never been tried, cannot be matter of uſage. So much for the condition of ſlaves, who are in appearance reconciled to their lot.

In other inſtances, it is well known, that ſlaves, tho' under good uſage patient and tractable, are yet by extreme ſeverities driven into a ſenſe of injury and reſentment, which is inconſiſtent with the ſuppoſition of aſſent to the pretended condition of unlimited ſubjection. The injured feels himſelf to be a *perſon*, and not a *thing*; and, tho' he may ſeem to conſent in terms to put his *ſervices*, his *perſon*, and his *life*, at the diſcretion of another, yet he cannot abide the effects of capricious cruelty, without a pungent ſenſe of his wrongs, and a juſt effort of nature to defend himſelf. Such ſentiments are in reality what characteriſe a *perſon*, and place him in contradiſtinction to a *thing* or ſubject of property.

The

The contract of maſter and ſlave, if any ſuch were ſuppoſed to exiſt, is ſuch, on the part of the ſlave, as is not conſiſtent with free will or the exerciſe of reaſon. It is the reſignation of every thing, in exchange for nothing.

If any one ſhould formally ſtipulate to forego his right of defence, and debaſe his mind to the ſufferance of every act of injuſtice, this were to betray the want of reaſon, or at leaſt to betray ignorance of the ſenſe in which terms were employed to enſnare him. If ſuch a compact therefore, were pleaded as the ground of an obligation to unlimited ſervitude, it ſhould undoubtedly be ſet aſide under the exception of *fraud* on the part of the ſuppoſed maſter, or of *inſanity* on the part of the ſuppoſed ſlave.

But what is ſtill more than this, a ſlave, according to the definition adopted, where the inſtitution of ſlavery took place, and agreeably to the practice of purchaſe and ſale, eſtabliſhed in the market for ſlaves, is conſidered as a *thing*, and not a *perſon*. The ſuppoſition is impoſſible, and cannot be realized by the conſent of any party, even relating to himſelf. He may conſent to do what another commands, within the limits of poſſibility; but muſt continue to be a perſon, having original if not acquired rights, and inſpired by nature with a diſpoſition to revolt, whenever he is galled with the ſenſe of inſufferable injury or wrong.

The claim of a maſter or proprietor is founded, perhaps, with more plauſible appearances, on the ſuppoſed forfeiture of perſonal rights, when the reparation of a wrong may ſupport the exaction of ſervitude: A title which yet remains to be conſidered, and is the ſubject of the ſection that follows.

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In the mean time, the references which we have repeatedly made to the *prerogatives* of government, and the allegiance of fubjects, may feem fit rather to ftart queftions, and form difficulties, than to folve them: And we ought not perhaps to difmifs this queftion, relating to the fpecific obligations and rights that refult from compact, without endeavouring to bring into fome clear point of view the feveral queftions that may arife, refpecting the rights and obligations of men, under any form of fubordination or political inftitution.

In the firft place, we may venture to reject the idea of an *original compact*, as it is affumed, either in the formation of fociety itfelf, or in the eftablifhment of any actual government: For men muft have been already together in fociety, in order to form any *compact*, and muft have been in the practice to move in a body, before they can have concerted together for any purpofe whatever. And we are juftified, by the hiftory of mankind, in affuming, That, fome fpecies of government being neceffary to the peace of fociety, Providence has kindly ordained, that wherever there is a fociety, there fhould be government alfo, fubject to fuch correction as the grievances, men experience under it, may lead them to apply *.

It is neverthelefs a manifeft principle in the law of nature, that a right to command, or an obligation to obey, beyond what is required to the mere prevention of harm, can be founded in confent alone. The powerful have a right to command any perfon to abftain from harm; but not to do any pofitive fervice. There may be a power, therefore, without any right of command to this extent; and, where any fuch power is exercifed it may, in the language

* See Hiftory of Political Arts, vol. 1ft.

language of Engliſh law, be termed a government *de facto*, though not a government *de jure*.

There is indeed, by inſtitution of Providence, and by an original diſtinction of dependance and power, in every ſociety, a government *de facto*. And the ſame may become a government *de jure*, alſo, if the parties concerned, upon trial of the ſituation in which they find themſelves placed, agree to the conditions which are required in the exerciſe of government. If the ſubject, for inſtance, agree to accept of protection, in return for the poſitive contributions and ſervices required to public ſafety; in order to make ſuch agreement binding on every individual, it is true that each, on his own part, muſt have actually given his conſent: For, by the law of nature, no one is engaged by compact, without a conſent given by himſelf in perſon, or by his agent commiſſioned for this purpoſe.

We may be aſked, then, under what government did the people aſſemble in a body, to give the conſent neceſſary to found ſuch a plea of right to command them? We may anſwer: *No where.* And yet this is the only plea upon which the right to command can be ſupported. We are therefore bound to verify the plea, before we can urge it in behalf of any government whatever.

The conſent, upon which the right to command is founded may not be prior to the eſtabliſhment of government; but may be obtained under the reaſonable exerciſe of an actual power, to which every perſon within the community, by accepting of a cuſtomary protection, becomes bound to pay the cuſtomary allegiance and ſubmiſſion. Here is a compact ratified by the leaſt ambiguous of all ſigns, the whole practice, or continued obſervance of an ordinary

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dinary life. The conditions here are ratified, in every age, and by every individual for himſelf; not merely ſtipulated, in any remote age, and for a poſterity over which the contracting party had not any controul.

It may ſtill, however, be aſked, to what length the acquieſcence of parties will carry the rights and obligations, whether of the governing or governed. May the ſubject be ſuppoſed to acquieſce in diſcretionary power, or the magiſtrate entitled to claim unlimited ſubmiſſion? The anſwer here is the ſame as was given to the queſtion of property in a maſter over his ſlave. Agreements made known by cuſtomary practice can extend only to ſuch practice, and will not juſtify any violent acts of diſcretion of either ſide. And even with reſpect to practice, if any act of injuſtice were ever ſo often repeated, it is not in the nature of things, that the injured ſhould conſent to be wronged, or agree to place himſelf at diſcretion in the power of the injurious. And, if injuries are committed, the continuance of injuſtice is a mere accumulation of wrongs, not a form of procedure, upon which any right can be founded.

No conſent can be pleaded for the exerciſe of diſcretionary power in the magiſtrate over the ſubject, any more than for the exiſtence of property in the maſter over the ſlave; becauſe neither can be ſuppoſed to know the condition to which he conſents; and the compact, in either caſe, would imply an act of inſanity, or a reſignation of every thing in exchange for nothing. As acts of diſorder and licence, on the part of the ſubject, cannot be juſtified on the precedent of any actual diſorder, no more can acts of tyranny and oppreſſion, on the part of government, receive any ſanction from any previous practice or abuſe of the ſame kind.

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Here, then, we reſt the ſpeculative doctrine, which is no more than this, that every party in ſociety may, by mutual practice, acquire a right to whatever is practicable, and a matter of fair agreement; but not to what is wrong, or inconſiſtent with the ſafety of mankind. And it is the wiſdom of nations, ſo far to define every right by actual ſtatute, as in every particular queſtion to exclude as much as poſſible, the influence of paſſion or partial intereſt, whether of the governing or governed.

The claim of a right to govern at diſcretion, or of a priviledge to obey at diſcretion, before either have any effect, is a mere form of words. And, if exerciſed only in acts of beneficence and duty, the diſcretion in either caſe, would be applauded and loved; but, in acts of diſorder and outrage, becomes the claim of a right to do wrong, which is a ſoleciſm in terms, and abſurd.

SECTION

SECTION XIII.

Of Forfeiture, and the Species of Right which refults from it.

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BY the law of nature; when a wrong is apprehended, it may be prevented; when an injury is offered, it may be repelled; and, when a damage is incurred, reparation may be exacted from the injurious party: Sothat; as a perfon may bind himfelf by confent or compact to do; or to omit to do whatever is fpecified in terms of agreement, fo a perfon, having done an injury, may become bound, in terms of the law of defence, to do, or to fupply to the injured party, whatever may be neceffary to repair the damage he has done.

This obligation, on the part of the perfon who has done a wrong, may be termed forfeiture; and the party having incurred this obligation may become bound to furrender to the injured party, under the title of reparation, what was before his own right.

In purfuing the object of defence, the party attacked or aggrieved is entitled, by any means effectual and neceffary, to preferve

ſerve or to recover his ſtate. He has a right to the uſe of means which are effectual, but not to the uſe of means which exceed what is neceſſary, in one caſe, to repel the attack, that is made upon him, or, in another caſe, to repair the damage he has ſuſtained.

Theſe limitations, in the right of defence, are evidently founded in the law of nature; although it may be difficult, in particular inſtances, to fix or to aſcertain their application by any preciſe rule.

A perſon, whoſe right is invaded, may think it neceſſary to employ all his powers in their utmoſt extent, to repel the invaſion; and he may have incurred an injury in his perſon, in his honour, or in his reputation, of which it may be difficult to eſtimate the meaſure or to adjuſt the reparation. Even in the caſe of treſpaſs, on ſubjects of real right, as in matters of poſſeſſion or property, the alarm may not be proportioned to the value of the ſubject invaded, nor can the meaſure of injury be always aſcertained by the quantity of loſs ſuſtained. The intention or mind with which an attack is made, is often more alarming than the material loſs to be apprehended; and inſult, in the manner of invaſion, may be more injurious than the phyſical harm it occaſions.

With reſpect to the variety of caſes that may thus occur, we muſt be contented to obſerve, in general, that a perſon may be bound, to replace, from his own property, the loſs he may have occaſioned in the property of another; and that, in caſe of any material damage, he may be bound to render perſonal ſervices, where he has not effects to anſwer his forfeiture.

If the injury he has committed affect the good name or reputa-

tion of another, he is bound to retract his calumnies, in the manner moſt effectual to repair the wrong he has done.

If he have not only impaired the ſtate of the perſon wronged, but given juſt ground of alarm, alſo, on the ſubject of his future behaviour, he is bound to admit of ſuch precaution, as may be ſufficient to guard againſt the danger of which he has given a juſt apprehenſion. And the injurious, in particular inſtances, is juſtly expoſed to ſuch puniſhment or ſuffering, as may be neceſſary to deter himſelf or others from repeating the offence.

Nature has happily inſpired the mind of man with indignation or reſentment of wrongs; and this ſentiment may quicken the arm of public juſtice: But to render the exerciſe of public vengeance, and the infliction of puniſhment agreeable to the principle of natural law, it ought not to exceed the allowable means of defence; or be any other than a reaſonable expedient for the ſuppreſſion of crimes; and this principle contains in itſelf the rule upon which a juſt gradation of puniſhment ſhould be accommodated to the variety and gradations of guilt.

In the firſt place, as the terms right and wrong are correlative, it may be obſerved, that where a perſon has not done a wrong, he cannot be ſaid to have forfeited a right; or in other words, as wrong implies ſome culpable action, no forfeiture can enſue where there is no culpability or blame.

Agreeably to this maxim, involuntary or caſual incident, of any ſort, although it may be the cauſe of harm to any one who is placed within reach of its effects, yet is it to be conſidered, not as a wrong, but as a misfortune, equally an object of regret to the doer, as to the ſufferer; and to both equally an object of future-

ture precaution. If a perſon, for inſtance, ſhould, by falling from a height, hurt or damage the perſon or property of another, in the way, it is evident, that by ſuch misfortune he might become an object of pity, but not of reſentment, that the damage ſuſtained could not be imputed to him, nor the reparation of it in juſtice be exacted from him. So that, although there may be damage, if there be not a crime, there is no juſt occaſion for the infliction of puniſhment.

In the Roman law, a perſon was reſponſible for the treſpaſs committed by his beaſt, as well as for a treſpaſs committed by himſelf; but this is juſt ſo far only as the damage ſuſtained from a beaſt, otherwiſe lawfully kept and uſeful, could be imputed to neglect or culpable inattention, on the part of the owner.

It was admitted, that the owner ought to guard againſt ſuch treſpaſſes as it was the nature of his beaſt uſually to commit. Theſe he might foreſee, and was bound to prevent: But, if an animal ſhould depart from the uſual track of his nature, and treſpaſs in a manner that was not to be expected from him; if a cow, inſtead of a treſpaſs on the paſture or ſtanding corn of a neighbour, ſhould, contrary to the natural inſtinct of ſuch animals, become carnivorous, and devour the young of a neighbouring herd: Here the damage could not be imputed to the owner, as the prevention of it could not fall within the province of any ordinary or reaſonable degree of care or attention.

The deciſion of law, in this caſe, evidently proceeds upon a principle, that forfeiture is proportioned to the degrees of demerit, and we may add, that meaſures of puniſhment, authoriſed by the law of nature, ought to be regulated upon the ſame principle.

 To

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To crimes which originate in malice, or in any deliberate purpose of guilt, ſufficiently ſtrong to break through the reſtraints of conſcience or of public repute, a proportional defence and correction muſt be applied. Where ſociety is alarmed by overt acts of malice or deliberate guilt, ſufferings may be juſtly inflicted that may ſtrike even the obdurate with awe and terror; or, if the life or liberty of the guilty perſon ſhould be inconſiſtent with the public ſafety, he may no doubt, be juſtly removed by exile or by death.

Offences that ariſe from ſudden guſts of paſſion, may be reſtrained or corrected by puniſhments of inferior degree.

Faults of ignorance or inattention may be corrected by better information, admonition, or even by the experience of an evil thereby incurred.

One order or deſcription of men may be reſtrained by the fear of ſhame or diſhonour; to reſtrain another pecuniary fine or bodily ſufferings may be requiſite; and it is not at all neceſſary, that we ſhould recur to convention, in order to reſt upon this baſis the obligation of the magiſtrate not to confound unequal meaſures of guilt or public alarm in the promiſcuous application of extreme puniſhment to offences unequally heinous, or unequally incorrigible; nor is it neceſſary to recur to convention, in order to found the right of the ſubject to plead his exemption, in every caſe where unneceſſary or diſproportional degrees of ſeverity are employed againſt him.

We have ſtated forfeiture among the ſources of adventitious rights; and, in conſidering what ſpecies of right may reſult from thence, may proceed to obſerve, that forfeiture cannot, like occu-

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pancy or labour, give title to a ſubject, in which no one before had any right. The perſon forfeiting muſt forfeit only what was his own, ſome poſſeſſion or property which he may be forced to reſign, or ſome ſevice which he may be forced to perform.

It is farther evident, on the principle of the law of nature, that nothing can be lawfully ſeized or forced, under the title of forfeiture, except it be of a nature fit to repair or to compenſate a damage done, and that more cannot be exacted than is neceſſary for this purpoſe. This is implied in the general clauſe of the law of nature, which limits the means of defence to what is effectual and neceſſary.

A loſs of property may be repaired, by an equivalent in property, or ſervice performed. Even injuries which cannot be repaired in kind, as the loſs of a limb or bodily organ, may receive ſome compenſation ; and alarms may be quieted by ſome adequate meaſure of puniſhment, having a tendency for the future to reſtrain ſuch crimes. But it is evident, that, in the clauſe now cited is implied a prohibition of cruelties or ineffectual ſeverities, which have not a tendency to repair or to compenſate the damage ſuffered, nor to reſtrain the repetition of guilt.

From hence alſo we may conclude, that although a perſon may have forfeited his poſſeſſion, his property, or his labour, to any amount, yet no one can forfeit all his perſonal rights, or from a *perſon* become a *thing* or ſubject of property. Criminals, accordingly, in the policy of ſome nations, are condemned to labour, or to confinement for life. In this, however, it is not pretended, that their nature is changed from a perſon to a thing, or to a ſubject of property. Capricious cruelties having no tendency to

prevent

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prevent or to redrefs a wrong, are unlawful even with refpect to thofe who have trefpaffed on the rules of juftice.

Among nations of old, captives or prifoners of war were generally fent to the market, or retained as flaves; and from hence was derived the maxim of the Roman law, that a perfon might become a flave, upon the principle of the law of nations *.

We may admit, that thofe nations juftly confidered individuals as involved in the guilt of their country, as often as a juft reparation of wrongs was withheld. But, even upon this fuppofition, they greatly over-rated the forfeiture; or condemned their captives to a privation, which they had not incurred. They had undoubtedly a right to detain them during the continuance of a war, that they might not return to ftrengthen their enemy. They had a right to exact from them any ufeful fervice, which they were in condition to perform, towards repairing the wrongs done by their country: But as this proceeds upon a fuppofition, that their country had committed an injury, and refufed to make reparation, the cafe of every captive was not the fame; and the injurious, who enflaved the fubjects of a nation they had injured, were doubly in the wrong.

We may admit, perhaps, that a perfon, either in the wrongs done by himfelf, or as involved in the wrongs done by his country, may incur a forfeiture, fuch as, that after he has beftowed the labour of a whole life in endeavours to repair it, the effect may ftill

* Servus fit jure gentium.

ftill be inadequate; and we may admit as an inference from this fuppofition, that the claim of right acquired on the part of the injured, and the obligation incurred on the part of the injurious, may amount to fervice for life; but an obligation to fervice for life is yet far fhort of flavery.

In the firft place, it is limited to fuch ufeful performance, as the captive is able to render, and excludes the infliction of capricious feverities, that have no tendency to repair the damage done.

In the difcharge of his obligation, the captive is ftated as a perfon and as a moral agent, who, if he be not willing, may be forced to do what is neceffary to repair the wrong committed, but nothing more.

In the next place, as the law of nature fuppofes the perfon ferving, yet poffeffed of all thofe rights, of which the forfeiture has no tendency to effect the reparation in queftion, it is implied in the fame law, that, as often as thofe rights are invaded, he is entitled to repel the aggreffion, and to defend himfelf.

It is ftill more evident, that no one can be a flave by birth; for, even if he were bound to remain in the ftate of his parent, yet the ftate of the parent does not appear, upon any principle of the law of nature, to amount to flavery, or the privation of every perfonal right; but, even if this privation could be fuppofed to have been incurred by any convention or forfeiture, on the part of the parent, the child at his birth is innocent or difengaged, and born to the poffeffion of all his perfonal rights.

From the whole, then, we muft conclude, that the relation of

PART II. CHAP. III. SECT. XIII. maſter and ſlave is the reſult of violence, and cannot have ariſen, like poſſeſſion, property, or lawful command, upon any juſt title of occupancy, labour, convention, or forfeiture.

A perſon condemned to ſervice may accommodate himſelf to ſuch ſervices as he has been made to perform and to ſuch treatment as he has been uſed to receive: But this cannot be interpreted as the conceſſion of a right to impoſe unlimited burdens, or a right to treat him with boundleſs ſeverities.

One order of men may plead the expediency of holding another in ſervitude; but men have not a right to impoſe upon others whatever is expedient to themſelves; and we muſt ſtill conclude, that as no man is by nature the property of another, no more can he become ſo in any of the ways in which the right of property is acquired.

The conditions of men may be unequal, to any extent; and it may, in various ways, become the lot of one to render ſervice to another: But the law of nature ever preſcribes limits of juſtice or humanity, to the advantage which any one may take of the relation in which he ſtands to his fellow creature.

So far we have enumerated the rights of men, whether original or adventitious, and have enumerated alſo the ſources from which adventitious rights are derived or begin to exiſt, and the means by which they may be conveyed from one to another. It remains that we conſider the law of nature, in reſpect to the ſecond part of its applications, that by which it is propoſed to regulate the defences of men.

CHAP. IV.

OF JURISPRUDENCE,

PART SECOND, RESPECTING THE DEFENCES OF MEN.

SECTION I.

Of the Means that may be oppoſed to Injuſtice in general.

HAVING ſpecified a variety of *rights*, under the different titles of *perſonal* and *real*, of *original* and *adventitious*, with the different ways in which rights of the latter denomination may be acquired, we proceed next to conſider the means by which a *right* may be *defended* or mantained. PART. II. CHAP. IV. SECT. I.

PART II. CHAP. IV. SECT. I.

Under this title, the laws of war among nations will form a principal object of confideration and difcuffion; but as every perfon having a *right*, is entitled to fome adequate means of defence, we fhall ftate the law in its moft comprehenfive form, in which the rights and defences of fingle parties and of fellow citizens are included, no lefs than thofe of nations or feparate communities.

We have obferved, as the firft and moft general ftatement of the law of nature relating to this fubject; that a right may be maintained; or, in other words, that a wrong may be prevented, an affault repelled, and damage repaired, in any way, that may be effectual and neceffary againft the injurious party.

In the farther application of this law we are to confider the variety of perfons and circumftances to which it may relate.

Varieties of perfons may be comprehended under the titles of *perfons fingle*, *ftrangers to one another*, and *unconnected*; under the title of *fellow citizens*, and *feparate nations*, or the members of which feparate nations are compofed.

The circumftances under which a right is expofed or invaded, may direct us to the means of defence which may be refpectively proper or fufficient on fuch occafions. In one fet of circumftances, or on one occafion, *perfuafion* may be fufficient; in another it may be required to employ *deception* or *ftratagem*; ; and in a third it may be neceffary to employ *force*, at any hazard of fuffering to the injurious party. The means of defence, therefore, may be enumerated under the titles of *perfuafion*, *deception*, and *force*. The firft may take place among friends; the two laft

are lawful only upon the ſuppoſition of enmity, and are termed *hoſtilities*.

Perſuaſion conſiſts in the uſe of argument, repreſentation or rational inducement of any ſort, to obtain the conſent of the party with whom it is employed. To diſtinguiſh perſuaſion from deception, it is neceſſary that it ſhould be limited to the uſe of conſiderations founded in truth, or believed by the perſon who uſes them to be of real moment in deliberating on the ſubject reſpecting which they are offered. To diſguiſe or conceal the truth, to miſrepreſent any important circumſtance relating to it, or to impoſe with fallacious argument, is rather to deceive than to perſuade.

Under this limitation, *perſuaſion* may be employed to obtain a favour no leſs than to defend or maintain a right; and as they who may be perſuaded to do right are not to be conſidered as injurious or maliciouſly inclined, they are not objects of puniſhment, whether puniſhment be conſidered as an example to deter the injurious, or as a precaution to guard againſt any future criminal attempts.

Perſuaſion is amicable; but where amicable means are not ſufficient to preſerve a right, *hoſtilities* no doubt are lawful; and among theſe *artifice* or *deception* where ſufficient, may be choſen as the leaſt hurtful to the perſon againſt whom it is employed.

Deception or miſinformation, in the nature of things, even apart from diſtant conſequences, is pernicious; and to employ it without neceſſity is an injury. The perſon againſt whom it is ſo employed has ſubject of well-founded complaint; or may demand

 information

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information of the truth as his right. Even a perſon who is put upon his defence, may reject the uſe of diſguiſe or deception, as diſhonourable means of ſafety to himſelf: But we are not enquiring, in this place, what is the moſt honourable part for the injured to act, but what the ſuppoſed injurious perſon may claim as a right, reſpecting the uſe of means to be employed againſt himſelf.

It is admittted, among the modern nations of Europe, that requiſition of right, *manifeſto*, and ſolemn *declarations of war*, ſhould precede *hoſtilities*, or the actual uſe of force. Diſguiſes and artifices, nevertheleſs, in certain negociations or tranſactions of ſtate, are employed to gain an advantage, perhaps, without any ſuppoſed infringement of this rule.

There is, indeed, a general diſpoſition to reprobate *artifice* or *deceit*, even when employed to repel an injury, or to fruſtrate a malicious intention. This proceeds upon an aſſociation of baſeneſs or cowardice with every act of diſſimulation or falſehood, which we accordingly reprobate under the denomination of *treachery*: But this appellation no more applies to the uſe of ſtratagem in repelling an injury, than the term murder applies to the uſe of a ſword or deadly weapon in repelling an aſſault on the perſon or property of an innocent man. If a perſon, acting in his own defence, may receive an aſſaſſin on the point of his ſword, how can it be ſuppoſed, that he may not withhold information from him, or even by miſinformation miſlead him from the execution of his malicious purpoſe.

The aſſaſſin who purſues an innocent perſon, in order to murder him, may no doubt be lawfully told, that the perſon he ſeeks

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is gone to the right, when he is actually gone to the left. In this manner, deception or ſtratagem is univerſally admitted as juſt on the principles of the law of nature; and, although perſons who conſult the reputation of bravery may think that open force is preferable to deception or diſguiſe of any ſort; yet, upon the general principle, that rights are to be defended by means the leaſt hurtful to the perſons againſt whom they are employed, deception and artifice is in general to be preferred to the uſe of actual force.

The uſe of *force*, it is true, may not always be more ſevere or deſtructive in its effects than the uſe of deception; but, as force repelled by force is likely to proceed to the higheſt extremities, it is juſtly placed as the laſt reſort of the injured in defending their rights, and not to be employed where it is ſafe to rely on perſuaſion or ſtratagem.

Under this title of *force* may be included not only the uſe of arms and actual violence, forcible reſtraint, and the infliction of puniſhment, but even threats, or the denunciation of violence, which may operate on the fears of thoſe againſt whom they are employed.

Such being the gradation of means, that may be employed in defence of a right, the law of nature is modified, in particular circumſtances, by a regard to the choice which is to be made of ſuch means, according to the degree in which they are ſeverally effectual or neceſſary.

In the applications of this law, alſo, regard muſt be had to the deſcription and relation of perſons, whether *ſtrangers* and *unconnected*,

nected, *fellow citizens*, *separate nations*, or the *members* of which *separate nations* are composed.

Of the law, as it applies to the case of persons so diversified, it is proposed to offer a few of the most necessary observations, in the following sections.

SECTION

SECTION II.

Of the Law of Defence, in the Case of ſingle Perſons, Strangers and unconnected.

THE parties to whom the law of defence is to be applied in this ſection, are termed *ſingle*, becauſe we mean not to conſider peculiarities incident to collective bodies, conſidered as ſuch. They are termed *ſtrangers* and *unconnected*, becauſe we mean not, in deciding any queſtion that may ariſe between them, to take into our account the effect of any previous convention either expreſs or tacit.

In ſuppoſing ſuch parties, we abſtract from all the peculiarities which occur in the caſe of fellow citizens, under the effect of their municipal laws, civil or political inſtitutions. We abſtract from the peculiarities which diverſify the caſe of ſeparate nations, modified as it is by previous treaties, claims, or conventions, or by the mode in which collective bodies are made up of the members which ſeverally compoſe them.

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The case, then, which we are now to consider, is supposititious, and a mere abstraction. So that, in this point of view, the circumstances of a case, which in nature are joined with many other particulars, are to be stated apart, and separately considered. Such abstractions are useful in argument; but must not, or ought not to be mistaken for matters of fact.

This caution has not always been observed, in treating of the abstraction which we have now made. The case of parties, strangers and unconnected, has been termed the state of nature, and even mistaken for historical fact: But, in applying the law of nature to this supposition, it is not by any means necessary to admit, that the whole of the human species ever consisted of parties unconnected, or that men ever existed in a state of individuality, or in a state of estrangement of one from all mankind. The purpose of science is effectually served, by supposing two or more parties so unconnected, although neither be supposed unconnected with the whole species.

The term, *state of nature*, as equivalent to the abstraction which we now make, has been employed by writers, who do not by any means seem disposed to favour the assumption of estrangement from his kind, as the natural state of man. Dr Blackstone, among others, has made use of that term in the following passage: "If "a man," he says, "were to be in a state of nature, unconnected "with other individuals, there would be no occasion for any "other laws than the law of nature and the law of God; neither "could any other law possibly exist." But he afterwards subjoins: "Man was formed for society; and, as is demonstrated "by

" by the writers on this ſubject, is neither capable of living alone, " nor indeed has he courage to do it *."

The ſtate of nature, then, according to this learned and judicious writer, is not the natural ſtate of man, but a mere abſtraction made for the ſame purpoſe for which abſtractions are commonly made in the purſuit of ſcience; that we may have a diſtinct view of certain conſiderations ſeparately taken, before we proceed to view them as combined in the aggregate forms under which they are actually preſented in nature.

Man, even in his phyſical ſtate, exhibits a ſum of many ſimultaneous circumſtances, whether original and coeval with his being, or, what is nearly the ſame thing, immediately conſequent upon it. He has occupied ſomething that is uſeful to him, and has a right of poſſeſſion; he has laboured to ſome purpoſe, and has a right of property; he is a father or a child, the member of a family or ſome larger ſociety; and the ſimpleſt movement he can have made with his fellow creatures, may amount to convention, or ſome adventitious modification of his original obligations and rights. So that we ſhall find no actual period of hiſtory in which we can apply the reaſonings of this ſection to the ſpecies at large, or to any conſiderable numbers of men.

We may ſuppoſe two perſons, at the ſame time, caſt aſhore on ſome deſert iſland, and ſuch is perhaps the only poſſible caſe in which our ſuppoſition can be realized; and our queſtion at preſent with reſpect to it is not, what would be mutual inclina-

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* Comm. on the Laws of England. Introd. Sect. 2.

PART II. CHAP. IV. SECT. II.

tion of fuch perfons at their firft meeting, whether to co-operate as friends, or to encounter as enemies? This queftion is no doubt of confequence in forming our notion of man's deftination, whether to peace or to war, to fociety or folitude: But that the decifion in fuch a cafe might apply to human nature in its fimpleft ftate; it might be neceffary to fet apart any previous effects of experience or habit, by which either of the parties feparately, or both, might be previoufly difpofed to act a part which nature would not have fuggefted to them prior to fuch experience or habit.

It cannot be doubted, that in fo forlorn and difaftrous a ftate, each would rather meet with a friend than an enemy, and each would rather make a friend of the perfon he cafually met than an enemy. There is, however, reafon to believe, from the principle of caution with which human nature is endowed, even in childhood, and which experience may direct, but does not remove, that fuch perfons would approach one another with mutual circumfpection and caution, each rather with fear of what he himfelf might fuffer, than with any difpofition to annoy his fellow creature; and univerfally it may be affumed perhaps, that the earlieft fenfation of human nature, as Montefquieu has obferved, is rather a feeling of weaknefs and a need of fupport, than a feeling of ftrength or a difpofition to provoke animofity.

But whatever may be the folution of this or any fuch phyfical queftion, our object at prefent is not to determine, what the parties in fuch a cafe might be inclined to do, but what each would have a right to do for his own prefervation and defence. We would ftate the decifions of the law of nature on a fuppofition of the fimpleft cafe, in which parties are vefted merely with their original rights and the means of defence with which they are ac-

companied: Our decifions, therefore, upon this fuppofition can be little more than a repetition of what has been already ftated in the general enunciation of the law; whether refpecting the rights of which man is born in poffeffion, or which he is competent to acquire, and the general permiffion of means effectual, fo far as they are neceffary for the prefervtion of fuch rights.

Together with the original appurtenances of human nature, *life*, *limb*, and *faculty*, we muft likewife admit all thofe rights, which, even acting feparately and unconnectedly, the individual may acquire for himfelf. We muft fuppofe him entitled to defend not only his organs and powers, but the fruits and effects of them alfo; entitled to defend his poffeffion, as firft occupier of any fubject that accommodates him; or his property in a fubject, as having employed labour to meliorate or to procure it: So that, together with his rights of original poffeffion, he is entitled alfo to defend his right, to make acquifitions by labour, convention, or otherwife.

If, in the midft of rights fo defined, one party fhall commit an injury, or give juft caufe of alarm to another, this other is entitled to his defence and is not reftrained in the choice of means, by any confideration befide the general provifion of the law of nature already ftated; a provifion which admits that effectual means may be ufed, but in which unneceffary acts of cruelty or feverity, with refpect to thofe againft whom fuch means may be employed, are ftrictly prohibited.

Upon the fuppofition of a difference fubfifting between parties otherwife ftrangers and unconnected, or what is called the ftate of nature, it is fometimes afked, who is to judge or to decide

 beween

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between parties in this ſtate? This in effect is firſt to ſuppoſe, that parties having no convention are amenable to no juriſdiction inferior to the tribunal of God, and afterwards to enquire to what human juriſdiction ſuch parties are ſubject.

They may or may not ſubmit to an arbiter at pleaſure; and, though nature has limited the means of defence to thoſe which are neceſſary, the obſervance of this limitation, together with the exerciſe of every other right, would in fact depend on the diſcretion and candour of the parties themſelves; a caſe in which no proviſion being made againſt the paſſions or miſtakes of men, applications of the law of nature, however clear in theory, might be very lame and imperfect in practice; and ſuch condition of parties, if ever realized, ſhould be deplored as calamitous, or expoſed to much inconvenience and evil.

The inconvenience would ſuggeſt, for its remedy, recourſe to the judgement and arbitration of ſome third party, more impartial than either of the perſons more immediately concerned. The utility of ſome permanent recourſe of this ſort, would naturally lead to political inſtitution, and the eſtabliſhment of ordinary juriſdiction and protecting power: So that, while we ſuppoſe men to be aſſociated from their birth, or otherwiſe caſt into groups together, every difference or diſpute would ſuggeſt the neceſſity or utility of political eſtabliſhment.

Society is the natural ſtate of man, and political ſociety is the natural reſult of his experience in that ſtate of ſociety to which he is born. This is not the experience of ſingle perſons, or of ſingle ages. It is an experience, which began with the commencement of every ſociety, and can end only with its final extinction. Po-

litical

litical eſtabliſhments, accordingly, which began to be formed in in the firſt and ſimpleſt ages, continue in a ſtate of gradual formation, as the experience of every age directs, to the lateſt period at which ſtates or communities, in the courſe of things, are allowed to arrive.

The people in republics, in the laſt as well as the firſt ſtage of their political union, are deviſing rules by which to govern themſelves.

The monarch continues to ſettle terms, on which he propoſes to diſtribute rewards and puniſhments, honour or diſgrace, among his ſubjects. And the deſpotical maſter continues to make known the advantage he propoſes to himſelf or his people from the exerciſe of his power; whether in the gratification of a divine benevolence, that of Antoninus; or in the gratification of a brutal appetite like and paſſion, like thoſe of Caligula and Nero.

SECTION

SECTION III.

Of the Case of fellow Citizens.

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THIS caſe is indefinitely varied in the multiplicity of political forms. Our object, with reſpect to it, is to enumerate, in general terms, the principal parties of which every political ſociety conſiſts; and to ſtate the obligations and rights, which are eſſential to their relation, as members of the ſame community.

Civil ſociety is not improperly termed a ſtate of convention; for, although men are actually in ſociety together, before they enter into any form of bargain or compact; yet, every ſtep that is made, in the concourſe of numbers, tends to convention. Every practice continued into cuſtom, is fairly interpreted as the faith of parties plighted for the obſervance of it; and the members of every ſociety, even of the ſhorteſt duration, become inveſted with rights, or ſubjected to obligations, founded in ſome ſpecies of contract expreſs or tacit.

But

But we now ceafe to enquire in what form the civil or political compact is ratified, whether by practice, capitulation, or ftatute. Thefe are the proper ftudy of profeffional lawyers, to whom the fupreme authority of their refpective communities is the ultimate rule in adjufting the obligations and rights of men.

To the citizen of every particular community, the fpecific law of his own country is the tenure by which he holds his rights, and the meafure of obligations which he is bound to fulfil; but, however the civil inftitution, in any particular inftance, may appear to depart from the law of nature, by adopting modifications, which in their firft affumption were optional to the parties concerned; yet, as fuch modifications are founded in convention, there is not any fpecies of obligation or right actually valid in any community, that may not be traced to this its foundation in the law of nature.

There are certain relations of men effential to every fociety or community confidered as fuch; and there are certain obligations and duties which may not only be traced to their foundations in the law of nature, but which are to be confidered as immediate objects of that law, and placed, as we now propofe to place them, among the cafes to which the law of nature is immediately applicable.

Under every political eftablifhment, there is a relation of *magiftrate* and *fubject*, and a relation of *fellow citizens*, which, however diverfified in particular inftances, are neverthelefs in a certain abftract point of view common to every eftablifhment, and effential to the nature of political fociety itfelf.

It

It is our object, at present, therefore, to ftate the relative conditions of magiftrate and fubject, and the relative condition of fellow fubjects in the moft general terms, fo as to comprehend the obligations and rights which enter into the nature of political fociety itfelf confidered as fuch, without attempting to fpecify the peculiarities, by which the relations of men, in different inftances, may be diverfified.

It is the condition of the magiftrate, in his moft abftract point of view, to govern and to protect the fubject: It is the condition of the fubject to be governed and protected.

It is the mutual condition of fellow citizens, in the fame abftract point of view, to be vefted with rights, in regard to which they are to one another reciprocal objects of confideration or refpect: It is implied, in the character which is common to them all as fellow citizens, that, if any difference arife between them, they recur to the judgement of the magiftrate, and that, whereever his interpofition can be obtained, and may be effectual for the prevention or redrefs of wrongs, they are to refrain from any application of force on their own part, and to acquiefce in fuch means of defence, as the magiftrate is duly bound to employ for their protection.

The citizen, therefore, in preferving his rights amidft the collifions of different claims and pretenfions, refigns into the hands or the magiftrate the weapons of defence, which, upon the fuppofition of *parties ftrangers* and *unconnected*, we found the individual entitled to ufe for himfelf. And the magiftrate may not only employ the authority with which he is vefted, fo as to defend the inno-

cent, but lies under an expreſs obligation, ſo to employ it: whilſt every other citizen, whatever be the means of defence with which he is caſually furniſhed, is reſtrained from the uſe of them, provided the interpoſition of the magiſtrate can be obtained for his ſafety.

Theſe are conditions implied in every political eſtabliſhment, and without which ſociety either cannot be preſerved, or cannot be ſaid to have received any political form.

In theſe conditions, however, the *obligations* and *rights* of the parties, ſo general and ſo neceſſary, are derived from convention alone. The magiſtrate has agreed to protect the ſubject, otherwiſe is not bound to this any more than to any other act of beneficence which he may perform at diſcretion. The citizen has agreed to abide by the judgement of the magiſtrate, and to refrain from any attempt to do himſelf right, where the interpoſition of the magiſtrate can be obtained for that purpoſe; and, although the form, in which ſuch agreements are entered into in different communities, may vary indefinitely, yet the compact, in reſpect to its general reſult, is the ſame in every inſtance; and the parties may equally plead their conventional rights and reciprocal obligations in every community.

We have already had occaſion to obſerve, that the right of the magiſtrate to interpoſe in the defence of the innocent, or in the repreſſion of crimes, does not need the ſanction of compact, in order to eſtabliſh it; for this right is common to him, with every other perſon having power, in whatever manner that power may be conſtituted, whether in the ſtrength of his arm, or in the cooperation of numbers that obey his commands.

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In what, then, we may be aſked, is the right of the magiſtrate conventional and peculiar to himſelf? It is conventional and peculiar, in ſofar as he alone is entitled to employ his power to this effect, and ſo far as every other perſon is reſtrained from like application of power, wherever recourſe can be had to that of the magiſtrate. In the abſence of the magiſtrate, or where his aid cannot be obtained, the ſubject may defend himſelf and his fellow citizens; and every individual man, to the utmoſt of his power, may interpoſe in the prevention of crimes.

The right of the magiſtrate, therefore, to repreſs crimes, and to protect the innocent is prior to convention. His obligation, at the ſame time, not to employ means unneceſſarily deſtructive or ſevere, even againſt the perſon who has incurred his oppoſition or his cenſure, is alſo prior to convention; and there is, as we obſerved upon the foundations of the law of nature, prior to any concert or agreement of parties, a rule for the application of various reſtraints, and the gradation of puniſhments.

Crimes, we have obſerved, are unequally pernicious and dangerous, and unequally alarm the community. The more forcible efforts of defence are juſtified by the higher degree of alarm which the crime is naturally fitted to give. Some diſorders are more eaſily reſtrained than others; and to theſe an inferior meaſure of puniſhment being ſufficient, the magiſtrate is not entitled, by the law of nature, to employ puniſhments of ſuperior degree.

Different deſcriptions of men, we have obſerved, are governed by different motives. The law of nature will not authoriſe, with reſpect to any one claſs or order of men, an higher meaſure of puniſhment,

nifhment, than is fufficient to reftrain them. The fear of torture or death may be neceffary to reftrain thofe who are infenfible to any other confiderations; while fhame, or the fear of difgrace alone, may be fufficient to reftrain, or to reclaim another order or clafs of the people.

As nations, by ftatute or cuftom, are found to depart from the conditions which the law of nature, prior to convention, has impofed; fo they have feldom been found to obferve any regular gradation of punifhments, or at leaft to remain within the bounds which fimple juftice, in every particular cafe, would prefcribe. They have departed from the law of nature, in the terms of their convention or practice; and, in the refult, fometimes find themfelves engaged in forms of adminiftration no lefs inexpedient than cruel and unjuft.

If, to the maxims of ftrict law we may be allowed to fubjoin confiderations of expedience, it is evident that, by withholding diftinctions in the meafure of punifhment, we inure the minds of men to confound the higher and lower meafures of guilt. And, if a criminal be to incur the higher meafure of punifhment, even for crimes of a lefs heinous nature, his cafe, in proceeding to infringe the law, is the fame as if no punifhments were to be inflicted for the higher crime; and he will therefore prefer it to the lower, if his temptations incline him fo to do.

By the law of nature, a magiftrate, in reftraining a crime, may proceed to the ufe of means that may be neceffary for that purpofe; but this law, inftead of being ftrained to the utmoft pitch of feverity, ought rather to give way to confiderations, which hu-

PART II. CHAP. IV. SECT. III. manity no lefs than expedience, in many inftances, will fuggeft.

The conceptions of men, on the gradations of demerit and criminality, may be greatly affected by the promifcuous application of punifhments. And, although the principle of defence, ftrictly applied, would juftify that meafure of punifhment, whatever it may be, which is neceffary to reprefs the crime, yet prudence, as well as humanity, would in fome inftances reject this authority, and reprobate the application of a punifhment, againft which human nature would revolt more than even againft the crime itfelf.

A licentious intercourfe of the fexes is highly pernicious, and the higheft meafure of punifhment might perhaps be neceffary, and ftill ineffectual to reprefs it entirely; but it is evident that, if the punifhment of murder were to be applied in this cafe, the remedy or the antidote might be more fhocking to human nature, and even more pernicious to mankind, than the evil itfelf.

It may be more difficult to reftrain a theft committed under the preffure of famine or want, than one committed for gain. It may be more difficult ftill to reftrain a theft committed for the relief of a perifhing family, than one committed for the fupply of perfonal want; yet human nature muft revolt at the fuppofed application of ftrict law in fuch cafes; and indeed it is admitted, in the ordinary jurifprudence of all nations, that the extreme neceffity of one perfon may fo far fuperfede the right of another, as to difarm the power that is provided in civil fociety to enforce this right.

To fucceed in eftablifhing a juft gradation of punifhments, we muft

muſt come with reluctance to the uſe of extreme ſeverities and avoid a precipitant application of puniſhment in the treatment of the lower offences. When ſlight offences are puniſhed too ſeverely, it becomes difficult properly to increaſe the meaſure of puniſhment for the higher crimes. When under the Roman empire, for inſtance, a ſarcaſm on the perſon of the emperor was puniſhed with death; it was not poſſible to find a proportionate degree of ſeverity for the crimes of perfidy or murder.

But whatever may be the gradation of puniſhments adopted, it is evident that the higher meaſure of ſuffering, may on occaſion, be neceſſary, and cannot be replaced by the lower or any intermediate degree. There may be crimes, we have obſerved, bearing evidence of a diſpoſition ſo depraved, and in appearance ſo incorrigible, that it may be neceſſary, by exile or death, to remove the criminal from the ſociety whoſe peace he alarms. And even, according to the circumſtances of his crime, it may be neceſſary to diſtinguiſh this ſacrifice with peculiar marks of reprobation and horror, to operate as an example againſt the indulgence of ſimilar diſpoſitions in other men.

It is no doubt poſſible in the application of puniſhments to err on the ſide of remiſſneſs as well as rigour. Mercy to the aſſaſſin is cruelty to the innocent, who may be expoſed to ſuffer by the commiſſion of his crimes.

We hear of ſovereigns to whom the executive powers of law are committed, who, either from miſtaken lenity, or from an apprehenſion of ſomewhat too ſacred in the life of man to be taken away by any human authority, have declared againſt capital puniſhments; or reſolved for a time to ſuſpend the uſe of them. The

object

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object of government, in the mean time, is not mercy to criminals, but the repreſſion of capital crimes which indanger the life as well as other rights of the innocent. And there is ſurely no wiſdom in declaring that criminals alone, for the future, ſhall take the life of a fellow creature. If the life of a man is too ſacred to be taken by any human authority, what is the innocent traveller to do, when attacked on the high way with weapons that threaten his life? what is the ſtate to do, when invaded by a foreign enemy, who forces his way by the deſtruction of all that oppoſe him? What is the ſoldier to do, when he finds himſelf under the neceſſity to kill, that he may not be killed? In ſhort, what is the magiſtrate himſelf to do, when he finds the lives of innocent ſubjects in danger from the profligacy of diſorderly perſons, who are ready to ſacrifice the peace of their country to the gratification of their vicious paſſions? If a life muſt be expoſed, either that of the innocent at the diſcretion of criminals, or that of criminals at the judgement of the magiſtrate, it is ſurely evident on whom the choice ſhould fall.

We plead for a juſt gradation of puniſhment, not that the guilty may eſcape, but that the innocent may be ſafe, and that no one may be expoſed to greater ſeverity than he has actually incurred by his crimes.

From the whole of this argument, then, it appears, that the law of nature, where there is no convention to the contrary, limits the right of the magiſtrate to the uſe of ſuch means as are neceſſary to the defence of the innocent or the prevention of wrongs; that all reſtraints or ſeverities, employed beyond theſe limits, are unlawful; and that, even prior to convention, a rule may be found upon which to erect a juſt gradation of puniſhments.

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Although convention be not neceſſary to authoriſe the magiſtrate in the diſcharge of his duty for the repreſſion of crimes; it is by convention that he alone is inveſted with the excluſive prerogative of interpoſing at all times in defence of the innocent. In every well ordered community his powers are acknowledged or inſtituted expreſsly for this purpoſe, and fellow citizens are underſtood to have agreed to refer their differences to a judge, to forgo the uſe of force in themſelves, and recur to the magiſtrate for protection.

This fundamental convention of fellow citizens is that which eſſentially diſtinguiſhes their caſe from that which was conſidered in the laſt ſection. It is that which conſtitutes the ſpecific advantage of thoſe who have the benefit of political eſtabliſhments.

The citizen, even when injured, muſt not do himſelf right; but muſt have recourſe to the protection of the magiſtrate for this purpoſe.

There are, however, exceptions to this ſalutary rule; either where, in the nature of things, the interpoſition of the magiſtrate cannot be obtained to prevent a wrong, or where the injury, once ſuffered, cannot be repaired by the utmoſt exertions of his power. In every ſuch caſe the ſpirit of political inſtitution, which is inſpired by a concern for innocence, requires, that the innocent ſhould be allowed to defend himſelf. If this were refuſed him, the ſociety to which he has recourſe for protection would in fact become a ſnare, in which he would be expoſed to ſuffer without any hopes of redreſs.

It is admitted accordingly, that any one aſſaulted in his ha-

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bitation, or in his perſon has a right to repel the aſſault. The maxims of law in different countries may be unequally favourable to this act of defence, requiring unequal degrees of caution in proceeding to the laſt extremities. In ſome it is required, that a perſon aſſaulted ſhould endeavour to eſcape before he repels force with force: But as an attempt to eſcape may in ſome circumſtances augment the danger to which the perſon aſſaulted is expoſed, it appears unjuſt and cruel to expoſe him to this additional hazard; and the humanity which ſeemed to take part with the aggreſſor, is indeed more properly due to the perſon attacked, who ought certainly to be indulged in defending himſelf at any neceſſary hazard to the perſon who aſſails him.

A woman who is forcibly attacked in her chaſtity, or a man who is put to the trial of perſonal eſtimation or honour, may receive an injury, which the utmoſt power of the magiſtrate cannot afterwards repair. The exception is accordingly admitted, in favour of the private right of defence, on ſuch occaſions.

Among theſe modes of attack, there is a ſingular ſpecies of injury, owing its effect to the caprice of manners in modern times; but of which the effect is extremely ſevere and injurious, not ſuſceptible of any legal meaſurement, nor repairable by all the power of the magiſtrate.

In conſequence of this ſingular caprice, altogether unknown to the celebrated nations of antiquity, not only aſperſions of character, but any ſingle term of reproach, or geſture of inſult, ſo far impairs the eſtimation or credit of the perſon who ſuffers them; that, if the breach be not repaired, in the way which caprice alſo directs, he becomes an outcaſt from the ſociety, in which his condition

dition depends on the eſteem in which he is held. Applications to the courts of juſtice, for reparation, would only increaſe the diſhonour. Falſe aſperſions may be removed by the cleareſt evidence of truth; but this would not remove the diſhonour of having ſuffered them to be made. An accuſation may be known to be true or falſe; its effect, however, in this caſe, does not depend upon the degree in which it is believed, but upon the degree of tameneſs with which it is received. Even calumny hurts, not by the imputation of any criminal charge, but rather by the imputation of cowardice, implied in the manner of receiving it; and the defence which caprice has provided for this mode of attack, is a diſplay of courage, not a refutation of any falſe accuſation. The accuſation may be true; but the courageous vindicates his honour: The accuſation may be falſe; but the coward is overwhelmed with diſgrace. Even the injured is denied the uſe of ſtratagem or ſurpriſe, in his own defence. He muſt meet his antagoniſt, however injurious, upon equal terms; and, if he would preſerve his honour, muſt paſs through the hazard of a ſingle combat for that purpoſe. His character for integrity may be blaſted or entire; but his eſtimation, in point of honour, is independent of either condition.

In this example, the deviation from reaſon is monſtrous; but the dignity of juſtice is made to ſtoop to the caprice of faſhion; and, ſo long as the private injury is ſuffered to have its effect, and the petulance or folly of one perſon may drive another from his place in ſociety; ſo long as the magiſtrate cannot preſerve the citizen in his ſtate; ſo long the injured citizen muſt be allowed to defend himſelf, and to adopt the only means which are effectual for that purpoſe.

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To reform this abuſe, has been juſtly conſidered as an object of great importance in the policy of modern nations: But attempts to this purpoſe have begun, perhaps, at the wrong end, by denunciations of ſeverity againſt thoſe who, finding their honour invaded, take the ordinary way of preventing or repairing the wrong with which they are attacked. If men are by vulgar caprice made acceſſible to an injury of the moſt ſerious nature, to an injury which the magiſtrate cannot repair, it is by no means juſt to reſtrain them from the only means of defence that is left in their power. This being evident to the general ſenſe of mankind, the only effect of ſeverities denounced by the law, in moſt countries, againſt the injured, as well as the aggreſſor, has been to oblige courts of juſtice to fall upon meaſures to evade the rigour of that very law they are required to apply.

If any thing could be done, to deprive unmerited affronts of their efficacy in the opinion of thoſe who determine what ſhall be a gentleman's reception in the world, the evil might probably ſoon give way, and the ſenſibility of honour be changed into a contempt of offences which are now admitted to have the moſt fatal effects.

We ſometimes congratulate ourſelves on the influence of this practice, as it tends to poliſh our manners, and reſtrain the violent from offenſive brutalities, to which paſſions may lead in the intercourſe of ſociety. We do not conſider, however, that we owe our ſenſibility to ſuch offences to the imputation of cowardice, which is made to accompany the ſufferance of them; and that, without this imputation, unmerited inſults would paſs in ſociety, like the noiſe of a ſcold, in which no one is ever pleaſed

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to think himſelf affronted, and which he therefore hears with contempt or indifference.

Crimes that proceed from the affectation of bravery, are not to be repreſſed by the fear of puniſhment. The threats of law, in ſuch caſes, give the quarrelſome a double opportunity of diſtinguiſhing himſelf. He braves his antagoniſt, and he braves the law. Even if he ſhould be puniſhed, his ſuffering does not degrade him in the opinion of the people; for the people, like himſelf, admire bravery, even where it tends to diſturb the public peace.

Abſurdity is more likely to cure itſelf, by being ſuffered to incur its extreme, than by being kept within certain bounds, which ſerve to conceal the extent of its folly; and duelling, like other faſhions, is likely to wear itſelf out when it becomes an affectation of the vulgar, and ceaſes to diſtinguiſh thoſe who are termed men of faſhion.

If there be in our times a progreſs towards this point of reformation, we have reaſon, in the mean time to regret the condition of thoſe, perhaps the leaſt deſerving of any ſuch fate, who may ſuffer under the prevalence of a folly, of which they cannot always avoid the effects.

Were the law to diſtinguiſh the *aggreſſor*, in the firſt approach to a quarrel, juſt marks of diſgrace affixed to the perſon in whom the offence originated, might perhaps inſpire every party with caution to avoid a quarrel, and have better effects than any forcible reſtraints applied to check the affectation of courage. It is not valour to brave diſgrace; and, if the law ſhould condemn an aggreſſor to ſome ſpecies of infamy, the faſhion of ſeeking for ho-

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nour, by raſhneſs in giving provocation, might be reſtrained by the proſpect of an oppoſite effect.

It might be difficult, indeed, in many caſes, to fix the charge of aggreſſor upon either of the parties in a quarrel: But the beſt effect of law is not merely to give the deciſion where an occaſion of trial has ariſen, but to prevent ſuch occaſions, from an apprehenſion of a deciſion that may be given. All that the law, indeed, can do, is to lay down a rule, and leave juries to apply it to the beſt of their judgement, on the circumſtances of every particular caſe. The rule, even before it is applied, would have its effect on the minds of thoſe who are expoſed to get into quarrels, and who, by avoiding the imputation of being the firſt aggreſſor, might prevent the firſt ſteps towards an offenſive diſpute.

Juries, too, in ſome inſtances, might be able to fix the charge of aggreſſor, ſo as to increaſe the effect of the law by real examples of ignominy and diſgrace. We pity the perſon who is forced into a quarrel, to vindicate his honour; but we deteſt the bully who is ever forward in giving riſe to ſuch quarrels; and any diſgrace which the law might award for ſuch characters would be ſupported by the general opinion and conſent of all reaſonable men.

Theſe are queſtions of political wiſdom, rather than of ſtrict law; but are ſtated with advantage, when the laws to which they refer are under conſideration.

Such, then, we may conceive to be the prerogative of a magiſtrate, in reſtraining crimes and offences. It is in part prior to convention, and a concomitant merely of his power. It is limit-

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ed to him alone, by the convention of fellow citizens, in which they have agreed to wave their right of perfonal redrefs, and recur to eftablifhed tribunals for judgement in their differences, and to the power of the magiftrate for his protection, in maintaining or in recovering a right; a convention, the articles of which, in whatever form they be ftipulated, whether of ftatute or cuftomary practice, are effential to the relation of fellow citizens in every cafe whatever; ftill admitting, indeed, the exceptions we have mentioned in cafes to which the interpofition of the magiftrate cannot be effectual, or cannot extend.

Members of the fame community are thus underftood to have their conventional obligations, relating not only to matters of right and wrong that may come into queftion between them, but alfo in relation to certain pofitive duties which they owe to the community, and of which the magiftrate is appointed to infpect the performance.

Political eftablifhments cannot fubfift without the fupport of their members, contributing either by their means or by their perfonal fervices to the public defence, or to the arrangements which may be neceffary for public profperity. In the very nature of political fociety, therefore, convention to this amount is implied.

Under this general title of political convention, may be included every law and eftablifhed cuftom relating to the prerogative of the magiftrate, whether fupreme or fubordinate, or relating to the privilege of the fubject, of whatever rank or condition.

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There are, in moſt communities that have made any progreſs in political arts, certain primary articles, which may be termed fundamental laws of the conſtitution. In theſe articles the deſcription of the ſovereign power, whether a King, Nobles, or majority of the people, is either given or aſſumed. The powers to be exerciſed, and forms of proceeding are aſcertained. The immunities, as well as the duties of the ſubject, are ſpecified.

Such fundamental laws, or conventions, are neither the foundations upon which ſociety was originally formed, nor do they always follow ſoon after its firſt inſtitution. They come in the ſequel of circumſtances into which men have paſſed, without any view to political eſtabliſhments, as in the ſequel of caſual ſubordination of ranks, ariſing from perſonal *qualities*, *birth*, *education*, or *fortune*: They are ſometimes the reſult of amicable deliberations, and ſometimes ſuch as prevaling parties may have obtained by force. Mankind are known to live for many ages in ſociety together, before they are ſenſible of the inconveniences, whether ariſing from the abuſe of prerogative or the abuſe of privilege, for which political law is intended as a remedy. The evils have ſometimes taken a deep root, before the attempt is made to remove them; and civil war is frequently the prelude to the eſtabliſhment of order upon any permanent footing. Thus the great charter in England; many of the political capitulations in Germany, the pacification of parties at Rome, and what may be termed the fundamental political law in the inſtance of many other ſtates, was the reſult of war or contention that aroſe after many ages of ſociety had elapſed.

Political eſtabliſhments in ſome inſtances appear to have no other foundation than cuſtom, or a ſucceſſion of acts which imply,

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that parties acquiefce, in the ftate of their country, or in the forms according to which its affairs proceed; and in juftifying the exertions of government in fuch inftances for promoting the public welfare, we feldom look farther than to the actual tendency of adminiftration to the public advantage.

It is a part in the focial nature of man, to hold the action of a fellow creature, as juftified on the principle of benevolence, made known in acts of public utility; but any claim of right to extort benefits, cannot, prior to convention, be admitted, without leading to confequences extremely dangerous and hurtful to the caufe of fociety. If benefits were to be enforced, beneficence would ceafe to be known as a virtue, and what ought to be a voluntary act of good will would become the effect of mere compulfion.

The ufe of compulfion, upon the principle of mere utility, would become a very dangerous precedent. The powerful could eafily obtrude this plea, wherever they thought proper to exert their violence, and under pretence of extorting public benefits, the greateft of public evils might arife in a want of fecurity to thofe very rights which government itfelf is eftablifhed to maintain. The people is not fafe, if the magiftrate may not only, reftrain crimes and diforders, but alfo exact contribution and actual fervice, beyond what he is authorifed to demand by fpecial contract, ftatute, or cuftom.

Any right in the magiftrate or fovereign to exact contribution, or pofitive fervice of any fort, from the fubject, being founded in convention alone; we may confider the different conftitutions of government as fo many compacts diverfified in the *terms*; or as fo many bargains in which the parties are varioufly bound, or in which,

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in return for what they are engaged to perform, they accept of unequal conditions. The terms may be unequally expedient; unequally favourable to any of the parties, or to human nature in general. They may have been fuggefted by the relation in which parties were occafionally placed, as when the prerogatives of monarchy or ariftocracy arofe by degrees from the continued diftinction of families, and the advantage of hereditary poffeffion.

The terms to which fome of the parties fubmit may have even been impofed by actual force; but in all communities, fo far as a right to enforce the performance of public fervice is fuppofed, we muft be able to derive this right, either from the original principle of felf defence, or from the principle of contract, on which alone one human creature is bound or may be forced to ferve another.

It may afked, then, on what principle of juftice are we to reft the exercife of compulfory law, in the cafe of governments which are known to have originated, and which continue to fubfift, in force or violence alone? On this foundation it is admitted, that no conventional right can arife. But it is well known in the hiftory of nations, that at one time the leader has forced his followers to fubmiffion; that at another time the follower has extorted privilege from his leader; that conditions fo obtained have been expreffed in ftatute, or gone into cuftomary practice; and that the effects of compulfion have thus become articles of a legal conftitution, of which the validity is never queftioned by any of the parties concerned.

The poffibility of fuch a cafe has been already ftated, in confidering cuftom as one of the forms in which conventional obliga-

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tions arife. A condition, at firft impofed by force may be fuch, it was obferved, as that men fhall be reconciled to it, continue to obferve it willingly and freely, infomuch, that a perfon conforming to it, on his own part, has the moft reafonable expectations of a fuitable return in the conduct of others.

This reafoning, however, will not apply, where any party in fociety affumes to itfelf an advantage, or fubjects any other to inconvenience of fuch a nature, as that, although compliance may continue to be forced; yet the fufferer is not reconciled to his condition, nor ever willingly confents to the obfervance of it. He does no more than he is forced to do; and the violence to which he fubmits, in every fubfequent period of a mere impofition, has the fame character of ufurpation which it had at the firft. Such, no doubt, is the character of defpotical tyrrany, by whatever party it be affumed, or exerted in difcretionary acts of injuftice or cruelty, over the perfons and properties of other men.

Under this title of continued ufurpation, we have already ftated the claims of a mafter, refpecting his fuppofed property in the perfon of a flave; a claim which, we obferved, cannot be founded on any principle of juftice acknowledged in the law of nature.

A people, in the fame manner, from confiderations of danger, may fubmit to the claims of tyrrany, whether ufurped by the leader of a military band, or by the majority of a diforderly people, and they may acquiefce in one fpecies of evil from the apprehenfion of a worfe; but fuch government, whether of long or of fhort duration, we may obferve, in anfwer to any of the queftions now or formerly ftated, is not founded in any maxim of right whatever. The

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principles of human nature, however long ſtifled by violence, are ever repugnant to ſuch uſurpations; and, like the force of a ſpring wound up, ſtill exert a preſſure againſt the power that reſtrains them. Hence, in perfect conſiſtence with natural juſtice, though not always with prudence or expedience, we may vindicate the ſudden or gradual reform of abuſes, which for ages may have poſſeſſed in appearance the authority of law and political inſtitution.

When we look back to the origin of government, as there is no where an original right of one perſon to command another, except ſo far as is neceſſary to reſtrain him from harm, we have recourſe to convention as the only principle upon which a right to command can accrue to one, or an obligation to obey can be incurred by another.

Prior to ſuch convention, we ſay, *that ſovereignty is lodged in the multitude*; but, when we bring theſe words to the teſt of any rational application, they amount to no more than this, that, prior to convention, every one has a right to diſpoſe of himſelf, ſo far as is conſiſtent with the ſafety of others: And that the multitude have this right, becauſe made up of individuals, each of whom is poſſeſſed of it; but, in what form the multitude is to exerciſe it, as a collective body, muſt depend on agreement to which individuals aſſent. Prior to convention, the majority has not any right to command the minority, more than any one individual has to command another.

In the abſtract deciſions of natural law, reſpecting the obligation of reciprocal contracts, the failure of one party diſſolves the obligation of another. So far, the matter is adjuſted, in words even between the ſovereign and ſubject. In practice,

too, the ſovereign has a ready proviſion made to enforce the rights of government againſt the refractory ſubject, and the rights of one individual againſt the wrongs of another; but, when the prerogatives which are given for protection, are employed to oppreſs, what new power can be found to redreſs the grievance? It is neceſſary, perhaps, that law ſhould be ſilent on this head, or take its precautions in wiſe limitations of government rather than propoſe to reſiſt its abuſe.

This is accordingly the great problem of political wiſdom, and a principal teſt of national felicity: But after all that can be contrived, or deliberately thought of, for this purpoſe, ſomething muſt be left to the powerful inſtincts of nature. When the multitude, whoſe intereſts ſo much it is to have a ſettled government, tear down the power by which themſelves are protected, we muſt ſuppoſe that they are either ſeized with madneſs, or that by wrongs they are driven to deſpair. In either caſe, maxims of ſcience and reaſon, or principles of juſtice are inculcated in vain. The reaſoner is every where ſurrounded with precipices. If he maintain, that the people, in every caſe, ſhould obey, he delivers over the ſubject to be oppreſſed and injured at diſcretion.

If he admit that the people, in any caſe, may reſiſt; as there is none but the party himſelf to judge of the caſe, all government will ſeem to be held at the diſcretion of thoſe who ought to obey it.

So far are we from being able to ſtate any ſpeculative or abſtract poſition that may not be abuſed. And ſo far are we left to the powerful inſtincts of nature, for our direction in matters of the greateſt moment. When the ſtorm threatens, the benighted traveller will take ſhelter wherever he can find it; and, when the roof cracks over his head, he will fly from under it into the

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midſt of the ſtorm. He need not recur to any maxim of law for this purpoſe: The power of neceſſity is ſuperior to law; and the inſtinct of nature drives to its end, with a force which ſpeculative maxims can neither withſtand nor direct.

Attempts to find any regular counterpoiſe to the weight of deſpotiſm, when every ordinary form is warped to the purpoſe of injuſtice, have perplexed the moſt ingenious minds, or ſometimes ſuggeſted a doctrine which can ſcarcely be applied beyond the form of words in which it is ſtated. That, as power originates with the multitude, that is, with the individuals of whom the multitude is compoſed, they have a right to reclaim it, wherever it is abuſed; or, if they are bound by the terms of a political contract, to ſubmit to government; theſe terms are reciprocal, and the contract may be broken of either ſide: If on that of the ſovereign, the power is again that of the multitude, and may be recalled.

Such maxims in ſpeculation coſt nothing but the words in which to expreſs them; but, in practice, we muſt remember, that, as the multitude never can be aſſembled, this maxim in effect puts the ſword in the hands of every individual, to employ it for himſelf. And the fate of mankind, in ſuch inſtances, muſt depend on what we term accident, or the character of thoſe who gain the aſcendant, or are able to preſcribe new forms of proceeding, after numbers are tired of the diſorders which have attended the ſuſpenſion of the old.

SECTION,

SECTION IV.

Of the Cafe of Nations.

THE human fpecies, though difpofed to affociate, is difpofed to feparation alfo. It is ever found in divifions and compartments, under the denomination of families, tribes, nations, or hordes. And of thefe the very leaft are rarely, without compulfion, or fome urgent confiderations of fafety or expedience, made to co-alefce in greater numbers, or, beyond the ties of acquaintance or confanguinity, fubmit to act under any common direction. PART II. CHAP. IV. SECT. IV.

There is, however, in the nature of things, fufficient provifion made to affemble the fpecies, or to form the combination of indefinite numbers.

Men are, by their difpofitions and their faculties, qualified to make the neceffary arrangements for the conduct of fociety however enlarged. And, however reluctant in every fucceffive ftep, they actually pafs over the bounds of perfonal acquaintance or

PART II. CHAP. IV. SECT. IV.

perſonal relation and numbers, however unknown to one another, ſuffer themſelves to be formed into nations and empires of the greateſt extent.

But, with reſpect to the objects of our preſent diſcuſſion, *any ſeparate company or ſociety of men acting under a common direction*, may be termed a *nation*: For any plurality of men ſo united, in the language of lawyers, is an artificial perſon, having power to act, and rights to defend.

In the intercourſe of ſeparate nations there being no government or common magiſtrate to whom they are ſubject, their caſe is, or may be nearly the ſame with that which was ſuppoſed in a preceding ſection under the relation of parties *ſtrangers* and *unconnected*. They are ſubject to the law of nature alone, however it may be modified by ſpecial conventions, and the law of nature for this reaſon is alſo termed the law of nations. In their differences or diſagreements they may appeal to the judgement of neutral powers; but if a difference is not otherwiſe removed, they may have recourſe to *war* and the deciſion of *arms*.

The law of nations, which proceeds upon the ſuppoſition of peace when their is no exiſting offence, proceeds upon the ſuppoſition of war when differences ariſe that cannot be otherwiſe reconciled; and is therefore, relatively to ſuch occaſions, termed alſo the law of peace and of war.

The laſt of theſe titles is that under which the learned Grotius has treated of the law of nature; and perſons who have recourſe to this author will have occaſion to ſelect from his redundancy what is neceſſary rather than to ſeek for additional information on the ſubject. Poſſeſſed of the juſt principle of compulſory law,

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he has applied it in a moſt ample detail, but ſo intermixed with quotations from the cuſtom and practice of different ages, with conſiderations of duty, as well as right; that his work becomes a ſyſtem of ethics, and the hiſtory of opinions and cuſtoms, rather than a ſimple deduction and application of the principles of compulſory law. His quotations, indeed, are intereſting, ſo far as we are concerned to know what men and nations have thought and practiſed, on the ſubject of their mutual obligations and rights; although their opinions are not of ſufficient authority in eſtabliſhing the principles, or in directing the applications of juſtice.

The moſt admired nations of antiquity were erroneous in their doctrines, and unfortunate in their practices relating to this important ſubject. In war, the hoſtilities they practiſed were often unneceſſarily deſtructive; and the ſervitude to which they deſtined their captives was altogether unfounded on any principle of juſtice. So that, what we have to learn from the example they have ſet in theſe particulars, is rather what we ought to avoid, than what we may imitate or quote as authority in deciſions of natural law.

We are, in this reſpect, certainly more happy in modern times. War is made with little national animoſity, and battles are fought without any perſonal exaſperation of thoſe who are engaged: So that parties are, almoſt in the very heat of a conteſt, ready to liſten to the dictates of humanity or reaſon; and there is no branch of practical juſtice, which we may recommend with more hopes of ſucceſs, than that which reſtrains nations at war, from unneceſſary ſeverities againſt one another.

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The artificial perſons, of whom we are now to treat, conſidered internally, or in reſpect to their conſtituent members, conſiſt of fellow citizens, magiſtrates, and ſubjects: Conſidered externally, or in reſpect of one nation to another, they have their ſeparate rights, whether original or acquired; may avail themſelves of ſuch rights; and guard them, by ſuch means as are in their power, againſt any ſpecies of infringement or wrong.

Among the rights of nations, acquired or adventitious, may be reckoned the ſtipulations of treaty, or the conditions of acknowledged cuſtom. Theſe ſeveral articles of right, every nation lies under an obligation to obſerve, reſpecting its neighbour, and is entitled to maintain reſpecting itſelf. In their diſputes, they may have recourſe to perſuaſion or reaſon; but, if reaſon ſhould fail, their final reſort is to ſtratagem or force.

Such is the ſtate of war between nations; a ſtate in which it is allowed, that former conventions ceaſe to be binding, and that a nation aggrieved may avail itſelf of every means in its power to obtain redreſs; but, if the grounds of war be lawful, on the ſide of the one party, they muſt be unlawful on the part of the other; and all that we ſay, concerning the rights of war, in the application of force, is true only upon the ſuppoſition that the grounds of the war itſelf are juſt: Inſomuch that, in ſtating the maxims of law, on this ſubject, we endeavour to expreſs only the rights of thoſe who are entitled to plead the juſtice of their cauſe.

Wars may originate in *rapacity*, *emulation*, or *malice*, in *error* or *miſapprehenſion of right*; they may be of indefinite continuance, or even form the ordinary ſtate of contiguous nations. The fact

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in thefe refpects, is matter of hiftory, and admits of indefinite variations; but we are, in this place, to confider merely upon what fuppofition the act of hoftility, in any one nation, may be juft; to what extent lawful hoftilities may be carried, or within what limits they are circumfcribed, even to nations who are entitled to ufe them in the higheft degree: But, before we proceed to this principal object of difquifition, it is proper to confider queftions which relate particularly to the cafe of nations, as they are, in their manner of acting or fuffering, diftinguifhed from fingle men. PART II. CHAP. IV. SECT. IV.

As the perfons of whom we are now to treat, include a plurality of individuals, having each a principle of will and activity centered in himfelf, as well as a common caufe, in which the members compofing the community may jointly act, or fuffer in a body; two principal queftions may arife concerning them: Firft, what actions, proceeding from the members of a community, are to be confidered as acts of the community itfelf? And, fecondly, In whofe perfon may the community be fuppofed to receive an injury; and from whom, in cafe of an injury received, may the community exact repation?

To the firft queftion, we may anfwer, That the fovereign of the ftate, of whatever defcription, whether a monarch or national affembly, is ever fuppofed to act for the community, and his actions are ever chargeable as actions of that body of which he is the head. In his title of fovereignty is implied a general fubftitution of his acts, for acts of that nation, of which the fupreme direction is committed to him. To this we may add, that the action of any individual, if employed by the fovereign, or commif-

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ſioned by the public ſo to act, or if generally underſtood to act for his country, will alſo involve, as a party in all his proceedings, the community to which he belongs.

But, as private citizens may offend againſt the peace of their own country, as well as againſt that of a foreign nation, ſtates are not anſwerable for the offence of particular ſubjects, farther than they previouſly authoriſe their conduct, or avow and protect the offender after the fact. Thus, pirates committing depredations on the high ſeas, are conſidered as private criminals, and amenable to the penal laws of their own country, whilſt letters of marque, or private ſhips of war, authoriſed by public commiſſion, or publicly received into port with their prizes, and protected in the uſe of them, are juſtly conſidered as involving their country in the hoſtilities they have committed, whether *unlawful* or *juſtly provoked.*

To the ſecond queſtion, we may anſwer, That a nation may receive an injury in the perſon or effects of any citizen: That, in the caſe of wrongs ſo received, the injured party may exact reparation, and make repriſals on the perſon or effects of any ſubject or member of the injurious nation: And, in reſpect to both queſtions, it is evident, that as a nation may be chargeable with a wrong committed by any of its members, whether authoriſed or merely protected, ſo the injurious nation may be coerced or forced to make reparation by means that immediately affect the private intereſt of any of its citizens, as well as by means that affect the community at large; inſomuch, that the law of defence, in its application to the caſe of nations, will bear, that a community injured, whether in any of its public intereſts, or in the

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perſon of any of its members, has a juſt claim to redreſs, and may make repriſals on the public, or on the perſons and effects of any or all the members of the offending nation. PART II. CHAP. IV. SECT. IV.

SECTION

SECTION V.

The same Subject continued.

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AS national councils are composed of members differing in their opinions and dispositions; and often fluctuating in their resolutions, according to the influence of contending parties, communities cannot be known to one another, as individuals are known, under any permanent character of tried affection and fidelity. Nations are, therefore, almost in every instance, mutual objects of jealousy and distrust; and must think themselves safe so far only, as they are severally in condition to maintain their respective rights. They must keep a watchful eye on the powers by which they may be annoyed from abroad, no less than attend to the means of defence with which they are furnished at home. Their independance must cease to exist, the moment it is held at the discretion of any foreign power: what a neighbour, therefore, is about to gain, may be to them no less a subject of alarm, than what they themselves are about to lose; and a war may be justly undertaken,

taken, by one ſtate, to check the dangerous progreſs of another; as well as to make any other proviſion neceſſary to its own preſervation.

This may render the queſtion of right and wrong between nations extremely complicated, and ſuſpend or perplex the deciſions of juſtice reſpecting the cauſe of a war.

In caſes of manifeſt aggreſſion the right of nations, like that of individuals, to defend themſelves is obvious, and injuſtice in the firſt ſtep of the war communicates a like character of wrong to every ſucceeding operation in the conduct of it; but in queſtions of mere caution or diſtruſt, it is difficult to determine how far one nation may juſtly oppoſe the progreſs of another, and in doing ſo be ſuppoſed to act on principles of mere defence; or at what preciſe point they may be ſaid to act offenſively, and to become aggreſſors in any quarrel that may ariſe between them.

The Romans may have been vindicated in requiring the Carthaginans to evacuate Sicily and Sardinia, but not in taking poſſeſſion themſelves of thoſe iſlands, much leſs afterwards in requiring the Carthaginians to remove their city to an inconvenient diſtance from the ſea.

In queſtions of this kind men of the greateſt integrity may be partial to their own country, and ſuch is the force with which nature has directed rival nations to pull againſt one another, that it would be dangerous in the councils of either to effect an impartial part; while an enemy is ſtriking, the ſword of a friend moſt not be held in ſuſpence.

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PART II. CHAP. IV. SECT. V.

In the quarrels of nations, therefore, much allowance is to be made for the miſtake or miſapprehenſion of parties, and even for the caution with which it is proper, in national councils, to guard againſt the claims of a rival, even if he ſhould appear to be ſupported by juſtice.

If one nation employ force in ſupport of its claims, however juſt, the nation attacked is entitled to reſiſt every attempt to reduce it under the power of another; and is not ſafe, even in making a juſt conceſſion, while its powers of defending itſelf are brought into hazard.

For theſe reaſons, we may wave the queſtion of juſtice, in the cauſe of a war, as depending on the actual circumſtances of the particular caſe, and conſider nations, acting without guile or premeditated malice of either ſide, as entitled to the privileges of a fair defence.

The means of defence were, in a former ſection, referred to three ſeparate titles, *perſuaſion*, *ſtratagem*, and *force*.

The firſt, it was ſaid, may be employed among friends, and in obtaining a favour, as well as in repelling an injury. In caſes where it may be uſed with ſucceſs, or where it may be ſafe to warn an enemy of a claim, that may be ſupported by force againſt him, it is no doubt required, that proper repreſentations ſhould be made, as the leaſt hurtful means that can be employed in urging a claim of right.

The Romans, for the moſt part, by previous complaint and requiſition of their right, propoſed to ſanctify their cauſe, and to

give at leaſt an appearance of juſtice to the hoſtilities which they were about to commence. The manifeſto and declaration of war, which generally precedes hoſtilities in modern Europe, may be practiſed with the ſame effect; but they are not ſtrictly required by the law of nature, in every caſe whatever. A nation that has taken the advantage of ſurpriſe, in committing an injury, cannot complain if the ſame advantage be taken of itſelf in making repriſals.

Declarations may operate merely as a warning to put the injurious party on his guard, and enable him the better to perſiſt in the wrong he has done, a ſuppoſition on which the practice is not at all neceſſary, or derivable from any principle of natural juſtice.

Among nations, however, like thoſe of Europe, in which the ſubjects of different ſtates are involved together in commercial connexions, and though innocent of any public wrong, are ſo much expoſed to ſuffer by the errors of thoſe who govern their reſpective countries, it is at leaſt humane, if not in ſtrict law required, that a certain warning of their danger ſhould precede the actual hoſtilities by which they are expoſed to ſuffer, and of the cauſes of which they are perfectly innocent.

This conſideration, it is hoped, may long recommend the practice of declaring war before the actual commencement of hoſtilities, among the modern nations of Europe, who, indeed, by the continuance of it, and by cuſtom, have given the expectation of it in ſome meaſure the authority of convention or compact.

Stratagem

Stratagem, implying ſome ſpecies of *deception*, is more the reſort of an enemy than of a friend. It may be employed in miſleading the injurious from his aim, or in obtaining from him conceſſions which he might not otherwiſe be willing to make.

On this ſubject, we have already conſidered the ſcruples that may ariſe reſpecting the uſe of *deception*, and the preference which the *brave* may give to the uſe of open force, even in obtaining redreſs of their wrongs; but we did not find, that the injurious can take any juſt exception to the uſe of *ſtratagem*, or complain that he is *deceived* when the effect is merely to counteract the wrong he commits. There is, however, one form in which deception is reprobated by mankind in general, even in the midſt of hoſtilities, and under the utmoſt animoſity of a national conteſt.

Although it be allowed to miſlead an enemy by falſe appearances, and even by falſe informations, it is not allowed to enter into illuſive treaties, or to ſtipulate articles for the ſake of an advantage to be gained by a ſubſequent breach of faith.

It is allowed that hoſtilities cancel the obligation of preceding conventions, but not the obligation of treaties that may be entered into after commencement of a war. Hence the ſacred regard that is paid to cartels, reſpecting the treatment or exchange of priſoners, the capitulations or treaties of ſurrender which take place in the midſt of military operations, the quarter granted to an enemy who lays down his arms, or the freedom that is given to a priſoner, upon his parole of honour not to ſerve until he is fairly exchanged.

In all theſe inſtances, the faith plighted, though even to an enemy, and under the operation of force, is held, by the general conſent of all civilized nations, to be ſacred in the higheſt degree. The obligation, though poſſibly not founded in the principle of ſtrict law, certainly reſts on a principle of humanity, abſolutely neceſſary to the welfare of mankind, as without it, the calamities of war, once begun, could ſcarcely ever be brought to an end. Peace itſelf reſts upon the faith of a treaty concluded, while nations were yet at war; and, if it were admitted that ſuch treaties could be entered into, and concluded merely to deceive an enemy, and draw him into a ſnare, it is evident, that the only means left to mankind, by which to ſtop the iſſues of blood, without the final extermination of an enemy, would be cut off, and two nations at war would be obliged to perſiſt in hoſtilities to the utter deſtruction of one or the other.

On this ground, breach of faith, even during war, is reprobated among civilized nations; and indeed, the advantage that might be derived from it, in any particular inſtance, would be more than counterbalanced by the general diſtruſt which the faithleſs would incur, in caſes where it might be their intereſt to have credit given to their declarations or profeſſions.

Force is the ordinary and ultimate reſort of nations who cannot ſettle their differences upon amicable terms. But, even in this laſt reſort, the law of nature, we have obſerved, directs a choice to be made of ſuch means, as being effectual, are leaſt hurtful to the parties againſt whom they are employed. The effect to be aimed at is the redreſs of a wrong; and any harm done, even to

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an enemy, beyond what is neceſſary to this effect, we have obſerved, is itſelf a wrong, and by the law of nature forbidden.

In applying this maxim to the caſe of nations at war, or in determining what may be lawful in the choice of hoſtilities, we are to conſider the object in view, and the ſtate into which it is propoſed to reduce an injurious party, in order to obtain the ends of juſtice.

Whatever may have been the ſubject in conteſt, the immediate object of hoſtilities employed by either party, is to reduce an antagoniſt to a ſtate of conceſſion, ſo that he may no longer reſiſt what is claimed as a right. This is the ſituation into which one party is reduced by a defeat; and the advantage gained by it accrues to the other, by having vanquiſhed his enemy.

The firſt or immediate object of military operations, then, being to obtain the victory, a ſecond is, to employ the advantage gained, ſo as to preſerve, ſecure, or recover the right which was originally in queſtion. And the ſtate of war between nations may may be divided into two periods; the firſt, that which precedes; the ſecond, that which comes after the victory. In the firſt period, parties are ſtill contending; in the ſecond, one or other is in condition to enforce his demands, or both, tired of the conteſt, wiſh for an accommodation.

With reſpect to the firſt period, or during the conteſt of parties, it is evident, that as hoſtilities are lawful only in preſerving a right, or in obtaining reparation of a wrong; ſo, in the choice of hoſtilities, ſuch only are to be deemed lawful as are neceſſary to obtain the victory.

This maxim in ſpeculation is abundantly clear, but in practice it is often difficult to apply it; for, while one party reſiſts or preſſes with all his force, and takes every opportunity to ſtrengthen himſelf and to weaken his antagoniſt, the other party will think himſelf juſtified in employing every means in his power to counteract operations, of which he knows not the preciſe extent.

Contending nations, for the moſt part, thus urged by an apprehenſion of what an enemy may be deviſing againſt them, proceed at once to extremities; uſe weapons and engines the moſt deſtructive, and employ means the moſt likely to reduce their enemy to ſubmiſſion, without any ſcrupulous enquiry into the degree in which ſuch means may be neceſſary, provided they are likely to be effectual for obtaining the purpoſe to which they are employed.

It is happy in the practice of nations when means of a deſtructive nature, ſuch as the uſe of poiſoned weapons, infecting the ſprings or ſupply of proviſions, breach of faith, or any other deſtructive meaſures, tending to ſurpriſe an enemy, without giving him the option of ſubmiſſion, are ſo far reprobated, as that neither party thinks of employing them, nor apprehends that they are ever to be employed againſt himſelf. In favour of ſuch practice the law of nature is clear and peremptory: That the party attacked ought, if poſſible, to have open before him the extent of his danger, as that alone may be ſufficient to obtain the conceſſion which conſtitutes the end of the war.

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During the period of conteſt, to whatever extremity an enemy that reſiſts may be urged, it is evident, from the general principle which limits the operations of war to ſuch means as are neceſſary to obtain the victory, that an enemy who ſubmits or yields, is thereby entitled to quarter. The end of the war, with reſpect to him, is already obtained; and to refuſe quarter, is juſtly conſidered amongſt civilized nations as an object of deteſtation and horror.

Priſoners taken in the courſe of a war are, agreeably to the dictates of natural law, diſarmed and ſecured, that they may not return to ſtrengthen the enemy: But as cruelties practiſed towards them have not any tendency to procure or to haſten the victory, it is not lawful to withhold ſubſiſtence or reaſonable accommodation in the manner of treating them.

The expence of ſubſiſting priſoners of war may indeed become an addition to the damage already ſuſtained from an enemy, and may accordingly become a juſt matter of charge againſt the party whoſe wrongs give riſe to the conteſt; but againſt whomſoever this queſtion may be decided, it is evident, from the general obſervations already made, relating to the faith that is to be kept even with an enemy, that cartels or treaties of any ſort, for the mutual accommodation of priſoners, are matters of ſtrict obligation.

We ſpeak not now of the regard which brave men and virtuous citizens mutually have for one another, though engaged on oppoſite ſides of a national quarrel. This is an article not of ſtrict law, but of perſonal generoſity, of poliſhed manners, or of can-

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dour, honourable for thofe who obferve it rather than matter of right, which may be always exacted by thofe towards whom it is obferved.

It is a well known maxim in the law of nature, that injurious parties have no right to exact the performance of any promife they may have extorted in purfuance of a wrong previoufly done. Thus a robber, who has taken a traveller's money on the high way, if he fhould extort a promife of fecrecy, has no right to exact the performance of fuch promife.

Upon this principle it fhould feem, that, in the courfe of a war, engagements contracted with the injurious party are not binding; or do not beftow any right on fuch injurious party to exact the performance.

Notwithftanding the evidence of this maxim, nations, moved by the confideration of its fatal confequences, have almoft univerfally confented to forego the exceptions of force or injuftice otherwife valid, to repel the obligation of treaties entered into during the continuance of a war, and have confented to hold the faith of fuch treaties equally, if not more facred than that of convention even between nations at peace. It is on the faith of this confent, that the afperities of war are foftened towards individuals, that the prevailing party, on every particular occafion, may refrain from unneceffary feverity towards an enemy, may fpare the vanquifhed, and releafe the captive. Upon the faith of this maxim, even during the animofities of war, a way is kept open for the return of peace; and the party aggrieved, even having an enemy in his power, is prevailed upon to fheathe the fword, and rely upon a promife of that enemy to repair the wrong

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wrong he has done, and to preferve the peace undifturbed for the future.

It is evident, in the abftract point of view, that while parties are at war, it is lawful to affift the innocent; but, that any perfon giving aid to the guilty, becomes an accomplice in his crime. Upon this principle, parties at war, afferting their claim of right againft an enemy, have an equal claim againft the auxiliary, or againft any nation giving refuge, protection, or fupport to an enemy; but parties, unconcerned, may repel the attempts which are made to engage them in a quarrel, refpecting which they are difpofed to preferve their neutrality.

Neither of the parties at war may lawfully feize the effects of a neutral perfon, in order to employ them againft his enemy; but, if the effects of a friend are deftined for the ufe of an enemy, and are fuch as may enable him the better to carry on the war, they may be lawfully feized.

If an enemy receive protection in the port or fortrefs of a neutral power, he may be lawfully purfued, and forced even in that retreat. With refpect to fuch matters, however, contiguous nations having frequent intercourfe, whether in peace or war, by their ordinary practice, give fanction to cuftoms, in fome inftances unequally agreeable or difagreeable to the original tenets of natural law.

Accordingly, among the modern nations of Europe, the effects of a friend going to an enemy may be feized, if they are fuch as would enable that enemy the better to carry on the war; and the effects

effects of an enemy may be ſeized on board the ſhip of a friend, provided the ſhip is reſtored with freight and other expences.

In the operations of war at land, an enemy may be purſued into the territory, and forced to ſurrender in the fortreſs of a neutral power; but, in the operations of war by ſea, neutral ports are held to be ſacred, and the protection they give is extended to ſome indefinite diſtance, at which their ſignals can be underſtood, or to which guns from the ſhore may be ſuppoſed to reach.

In this diſtinction, which is made between the liberties that may be taken with the land fortreſſes and ſea ports of an enemy, the rule is no doubt capricious, and the reverſe of that which the law of nature ſeems to inculcate. By the maxims of this law, an injured party may purſue his redreſs by any means which are conſiſtent with the ſafety of others who are not concerned in the wrong of which he complains. There is, or may be, evident reaſon to bar his entrance into the territory of a neutral power, or to bar his laying ſiege to a fortreſs in which an enemy may have taken refuge, as this cannot be done without damage to the territory on which he enters, or demolition to the works he would force; but there is no reaſon why he may not approach the coaſt or enter the port of a neutral power, and there force his antagoniſt, by means which no way affect the intereſt of the neutral party in queſtion. The only probable reaſon that can be aſſigned for the origin of this diſtinction is, that neutral powers are better prepared to keep the peace of their ports againſt the force of intruders by ſea, than they are prepared to keep the peace of their territory againſt the force of great powers collected to make war on their frontiers; that therefore they urge their right in the one caſe, and forgo it in the other.

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Such are a few of the principal points to which the law of nature applies, in what we ſtated as the firſt period of a war, while parties yet contend for the aſcendant or the victory. If the events of the war have been ſuch as incline either or both parties to make the conceſſions neceſſary to an accommodation, they are come to the ſecond period, in the ſequel of victory, which was ſuppoſed to be the firſt or immediate object of hoſtilities.

In this ſtate of parties, the victor has acquired a power to enforce his right, but, reſpecting the cauſe or ſubject of the quarrel, does not become veſted with any right that did not originally ſubſiſt, or that has not ariſen in the way of additional claim of compenſation for the damage ſuſtained in the courſe of the war.

The victorious, if his general claim be juſt, is now in condition to enforce it; he is in condition, alſo, to enforce compenſation for whatever he may have ſuffered in vindicating his right; and may lawfully require ſecurities, or take precautions for his future ſafety. But, as the ſucceſs of arms cannot change wrong into right, and as the innocent is not leſs entitled to juſtice, for being unable to reſiſt the violence that is offered to him, any ſuppoſed right of conqueſt, ariſing from the ſucceſs of a war, is a mere ſoleciſm in language, and the reverſe of any juſt tenet of natural law.

The fortune of war is ſometimes favourable to the injurious, and may place either of the parties concerned in poſſeſſion of advantages which they have not any right to retain, either in virtue of their original claim, in virtue of compenſation for damage ſuſtained in the war, or as ſecurities required to their future ſafety. On theſe ſuppoſitions, conqueſt can beſtow no right; and it is fortunate

tunate in the practice of nations, when, either from a principle of moderation, or from an apprehenſion that neutral powers might interpoſe to check the abuſe of their advantages, they employ their conqueſts only to ſecure themſelves in the poſſeſſion of their rights. PART II. CHAP. IV. SECT. V.

Among other advantages of civilization and public juſtice in modern Europe, we have reaſon to congratulate ourſelves upon this, that conqueſts are ſeldom undertaken, and acquiſitions ſeldom retained, except upon the ground of ſome plauſible or probable claim, on which the ſubject in queſtion was originally ſeized or demanded.

CHAP. V.

Of Moral Action, and the Characteristics of a virtuous and happy Life.

SECTION I.

Of Virtue, as diſtinguiſhable from the Effects of Compulſory Law.

IN ſome ſuch manner, as has been attempted in the two laſt chapters, we may trace the outlines of juriſprudence or compulſory law from a firſt principle in nature, as we purſue a ſeries of mathematical theorems from an axiom or definition previouſly aſſumed or underſtood. Our theories, in either caſe, no way affect the the phyſical ſtate of things otherwiſe than they are ap- PART II. CHAP. V. SECT. I.

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applicable by aſſumption of circumſtances, or by ſome degree of approximation in the caſes which actually take place.

The object of compulſory law is defence; and to obtain this end *force* is perfectly adequate: But the object of morality in general is different: It is to inſpire virtuous diſpoſitions, and render that ſtate of the perſon we would defend not only ſecure, but otherwiſe eſſentially happy.

When the law is thus conceived, as divided into two ſeparate tables; the one containing a prohibition of wrongs, the other requiring poſitive acts of beneficence, the ſanctions are ſuppoſed to be diſtinguiſhable alſo, under titles of perfect and imperfect obligation. The uſe of words is no doubt in ſome meaſure arbitrary; but it ought not to be implied in any words we employ, that a rule, merely becauſe it may be enforced, is in any degree more binding than the conſideration of what is in itſelf an article of wiſdom, as conſtituent of good to mankind.

Juſtice is ſaid to be the object of compulſory law; and it is ſo, no doubt, in reſpect to many of its external effects: But, conſidered as an article of ſupreme felicity to the perſon who willingly obſerves it, juſtice is no leſs above the reach of compulſion, than is the whole of that guardian affection, which renders man towards his fellow creatures not only unwilling to be the cauſe of harm, but active alſo in yielding the fruits of beneficence. The perſon who abſtains from harm, merely becauſe he may be forced to do ſo, is in no degree comprehended under any deſcription of virtue, and in reſpect to the good at which morality aims, may be conſidered as a wretch and an outcaſt from mankind.

Force may operate in practice, by presenting evils which deter from iniquity; but vice itself is a greater evil than any that force can inflict; and the obligation to humanity and candour, therefore, is as perfect as the fear of evil or the consideration of human felicity can make it. A person who deliberates on the choice of his conduct, will not always find himself more powerfully determined to respect what may be called the right of one fellow creature, than he is to relieve the distress, or cordially to embrace the merits of another *. An orphan, it is said, was found almost naked, lying on the grave of his parent, of whom he had been recently deprived; the person who found him, we shall suppose, was passing to an appointment, at which he was about to discharge a debt: But this object fixed his mind; he employed his money in procuring relief and protection for him; and his creditor for the time was disappointed. Will any one reprobate this act of humanity, as interfering with a matter of more perfect obligation? Even the courts of law, as we have had occasion to observe, can admit the extreme necessity of one person as valid to suspend the right of another. Thus, a person about to perish for want of food, is allowed to save himself by recourse to the property of another; and the plea of humanity is held to be more sacred than that of an absolute and exclusive right. Why should not humanity therefore be enforced? If it be the primary good incident to human nature, why should it not be obtained by any means the most effectual for this purpose? There is not, indeed, any reason why it should not be effectually obtained; and if force could be effectual to inspire benevolence, even

* Vid. Prix distribués et proposés par la Societé Royale d' Agriculture, dans sa seance publique tenue a Paris le 23 Decembre, 1791.

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even the ſword and the mace ſhould be employed to make men love one another. But benevolence is a modification of will, which no application of force can procure: Even the external effect, if obtained in this manner, would loſe the character of virtue. A beneficent action, which, when free, is liberality or charity on the part of thoſe who practiſe it, would, under the application of force, be changed into extortion or robbery on the part of thoſe who ſhould ſo exact the performance of it for their own advantage. To beſtow the felicity of a willing mind, force is not only inadequate, but, by alienating the affections of thoſe againſt whom it is employed, would have a contrary tendency.

All that the magiſtrate can do in this matter is, by ſhutting the door to diſorder and vice, to endeavour to ſtifle the ill diſpoſitions of men; and by ſecuring the paths of integrity, and marking them with conſiderations of diſtinction and honour, to facilitate and encourage the choice of virtue, and to give ſcope to the beſt diſpoſitions which nature has furniſhed, or which the ingenuous mind is able to cultivate in itſelf.

We are now to conſider not the applications of force, but the felicity of a willing mind. What is the beſt and moſt happy condition of human life? What moſt agreeable to the law of God and the general ſenſe of men ingenuous and well informed? The conſiderations which lead to this choice, if benevolence be ſuppoſed to need any excitement to its own purſuits, have been already enumerated under the titles of *conſcience*, *religion*, and *public repute*. But theſe may not be ſufficient without all the other accompaniments of a well informed, as well as benevolent mind.

Conſcience, indeed, for the moſt part will approve the acts of

beneficence and reprobate the effects of malice: But prejudice, on particular occafions, may affume the name of confcience. And men are not always virtuous in doing what they themfelvs conceive to be right. A perfon who has incurred a mifchivous error, may have his own approbation, while he is in reality an object of juft deteftation and horror; and the merit he affumes to himfelf in the face of better information, argues a mind depraved at once in its judgements as will as affections. Even the furious zealot who is pleafed to inculcate his doctrines under terrors of the rack and the fire, may think that he is active in the caufe of truth, or in propagating a faith which is neceffary to the falvation of mankind. Or the Mufsleman, who thinks it a duty, when the ftandard of Mahomet is erected, to plunge his dagger in the breaft of any Jew or Chriftian that is within his reach, may flatter himfelf that he has the fanction of confcience for the outrage he commits on humanity and juftice.

Under the title of *public repute*, or a deference to the fenfe of mankind, we may in general be directed to a harmlefs and beneficent courfe of life; but not always fecurely to this effect. Vain glory and mean popularity are fometimes grafted on this principle, and as often miflead the conduct of men, or embitter the moments of life with jealoufy or difappointment. In private the filence of fame is often the beft repute, as at Athens, that woman was faid to merit the higheft praife of whom no rumour either good or bad ever went abroad *. And to the father of a family alfo, who, by the conftitution of his country, is neither a ftatefman

* Vid. Thucidides lib. ii. c. 45. Rex vixit male qui natus morienfque fefellit.

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ſtateſman nor a wariour, nor placed in any public profeſſion, the ſilence of fame is itſelf a laudable diſtinction *.

Under the title of *religion* we admire and love the conceiveable perfections of the ſupreme Being : But bigotry and ſuperſtition may aſſume the name of religion, and ſubſtitute acts of oppreſſion and cruelty towards men for acts of duty towards God.

We muſt not therefore truſt to whatever may bear the name of religion or conſcience, or to what may have a temporary vogue in the world for our direction in the paths of a juſt and manly virtue. Every advantage of a benevolent mind and well informed underſtanding are conducive to this purpoſe, and the characteriſtics of a virtuous life, frequently revolved in the mind may have a ſalutary tendency to the ſame effect. To delineate the features of virtue is an agreeable taſk, and, when happily performed, is favourably received by mankind. Even they who in practice are leaſt obſervant of the models preſented to them, nevertheleſs bear witneſs to the truth of an obſervation which Cicero has quoted from Plato. *That if virtue could be rendered manifeſt to the eyes of men, it would excite the*

* Nec vixit male qui natus morienſque fefellit.

Upon this idea of a virtue retired in modeſt ſilence and indifference to fame, there is wanting for the inſtruction of mankind, a biographical collection containing examples of men who have been able to fill up the years of a happy life with occupations and duties which gave continual ſatisfaction, without any wiſh to extend their celebrity. It might be difficult indeed to collect materials for ſuch a work, and few are enough lovers of mankind and indifferent to fame to be qualified for the execution of it. If Mr Addiſon had betaken himſelf to this taſk, his country that owes him ſo much would have owed him ſtill more than for any of his actual ſervices.

the most wonderful passion of love and desire of wisdom *. Its lessons are happily received through the channels of ingenuous literature and the fine arts, no less than in the way of formal instruction. Of the first, there are many proofs in the works of distinguished genius, whether, ancient or modern in which qualifications which serve to accomplish the author serve also to instruct the world *. Of the other, there are also valuable remains of antiquity in the Memorabilia of Socrates; the Ethics of Aristotle; the offices of Cicero; and still more in the remains of Epictetus and Marcus Aurelius. In our own language also there are many valuable compositions on the subject. Some on that of manners, and the ordinary concerns of human life, having appeared periodically at different times of this century, still continue to be read with more than the pleasure of novelty. Others that have been delivered by persons in holy orders, and in the discharge of their sacred functions. With these, in any instance, I do not compete: But in my attempt to touch this copious subject, of which I cannot by any means hope to fill up the detail; I am ambitious to show that there is a science of manners or of Ethics, no less than of Jurisprudence or of Politics, and for this purpose

 would

* Forman quidem ipsam, Marce fili; & tanquam faciem honesti vides, quæ, si oculis cerneretur, mirabiles amores, ut ait Plato, excitaret sapientiæ, *Cic. de Officiis*, lib. i. c. 5.

* Scribendi recte sapere est et principium et fons.
Rem tibi Socraticæ poterunt ostendere chartæ,
Verbaque provisam rem non invita sequentur.
Qui didicit patriæ quid debeat et quid amicis;
Quo sit amore parens, quo frater amandus et hospes;
Quod sit conscripti, quod judicis officium, quæ
Partes in bellum missi; ducis ille profecto
Redere personæ scit convenientia cuique.

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would willingly point out a method, bywhich to derive the offices or duties of a virtuous life from principles at once ſo comprehenſive and unqueſtionably evident, as to enable every perſon to fill up the detail for himſelf.

SECTION

SECTION II.

Of the Occaſions and Characters of Human Action in general.

WE have laboured in former ſections, to have the characters, whether good qualities, or defects of mind diſtinctly conceived, as conſtituting, on the one hand, the happineſs and good, or, on the other, the miſery and ill, of intelligent being. In theſe characters of the mind ſubſiſts the diſtinction of good and evil. Corporeal actions are diſtinguiſhed only as their effects and external expreſſions.

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So much to be obſerved is perhaps neceſſary to a right underſtanding of the ſubject. At the ſame time, it muſt be admitted, that any individual mind, however poſſeſſed of its higheſt perfections, if, without means of communication with other minds, would be no more than a ſingle and ſeparate exiſtence, not a member in any community of beings; not active to any beneficent purpoſe; nor even having any ſcope for the exerciſe of its beſt diſpoſitions and faculties.

The Author of nature, fo far as we know, has not fo disjoined individuals from one another in any part of his works. There is an affinity and combination of minds, as well as of material fubftances. The chain of communication extends from one to many, from fpecies to fpecies, and even from world to world, throughout the intellectual as well as material fyftem of nature. In our limited views of the intellectual world, there is a medium, through which individuals give and receive intimation of their meaning, and on which they jointly work with mutual difpofitions to concert or oppofition. How this chain of communication may be formed, betwixt intelligent beings different from man, or how it may be fupplied in a ftate any way different from the prefent, we know not; but, in the prefent condition of man's intelligent being, his communication with other minds is effected by means of his animal frame. Through this medium, minds mutually know and are known to one another. Among the fubjects that affect the animal nature, they find conftituents of intereft or felf prefervation, on which they are induftrious. They encounter with one another in the fame or oppofite purfuits, and find materials that may be employed as means of beneficence or harm, of co-operation and oppofition, according as they are difpofed to act the part of friends or of enemies.

We have already indulged the idea, that this fcene of animal life, is but the opening of a boundlefs courfe, in which man is deftined to purfue the objects of his intelligent nature: By means of animal perceptions, the firft rays of information or knowledge are made to dawn upon his foul; he is made to perceive the world in which he is a part; and, in the edifice of nature, in which he is

lodged

lodged is not, like the other animals, merely an indweller; but is partly let into the reaſon of its contrivance, not merely urged by inſtinct, but qualified to deliberate on the choice of his actions, whether in obtaining a convenience to himſelf, or in procuring a benefit to his fellow creatures.

Theſe occaſions of action, making ſo material an article in the hiſtory of the human ſpecies, have been already ſtated; and the purſuits or exertions of mind, to which they give riſe, have been enumerated under the reſpective titles of arts, *commercial*, *political*, and *intellectual.* The firſt are employed on ſubjects required to ſupply the wants and neceſſities of animal life; the ſecond relate to the order of ſociety, or the relations of men acting in collective bodies; and the third relate to the exerciſes and attainments of mind, in the uſe and improvement of its diſtinctive powers.

When, in the ſequel of this ſtatement, we conſider how far the intellectual powers of man are ſhort of the degrees which he himſelf is able to conceive, we were naturally led to ſuppoſe, that there are, in the univerſe of God, much higher forms of intelligence than his. At the ſame time, we cannot but think, that even he is of no mean rank in the ſcale of being; for to him is allotted one of the primary planets, and what, under this title, may be reckoned a ſeventh part of this ſolar or planetary world. Here, then, is a mighty apparatus made for his accommodation; and our beſt way of reconciling ſo much conſequence in the ſyſtem of nature, with ſo much littleneſs in the preſent attainments of man, is, by ſuppoſing this terreſtrial ſphere which he occupies, and probably many ſuch, to be nurſeries for the great world of intelligent being: And in this ſuppoſition we may learn to reſpect the preſent ſcene of things, however ſeemingly frivolous, as a prelude to the

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the higher parts of a drama, for which men are deſtined to prepare in paſſing through the offices, employments, and duties of the preſent life.

Under one or other of the titles now mentioned, and formerly treated more at large, we may ſuppoſe the preſent occaſions of human action to be comprehended; and, if it be good for man to act his part, it is certainly required, in conſtituting that good, that the occaſions of action ſhould be attended to, and well underſtood. The external ſituations of men may be varied indefinitely, by the unequal poſſeſſion of things conducive to convenience or ſelf preſervation, or by the unequal diſtribution of materials on which the powers of wiſdom and goodneſs may be employed; and we may know that happineſs or miſery is not proportioned to the meaſure in which ſuch things are poſſeſſed, but to the right or wrong uſe of them, and to the wiſdom or folly of the part which is acted with reſpect to them. Yet, as the work is not likely to be well executed where the materials are neglected, philoſophy, which bids us attend to our duty, as the principal object in human life, has no tendency to make us overlook or neglect the occaſions to which the propriety of our conduct relates.

In general it is ſuppoſed, that means are ſubordinate to the end for which they are employed; and from this rule it ſhould follow, that the induſtry and ingenuity, the ſobriety and fortitude, practiſed by a man in the purſuits of fortune; that the benevolent affection, exercifed in acts of liberality or charity, ſhould be of inferior conſideration to the wealth which he means to acquire in the one caſe, or to the favour and relief which he means to beſtow in the other. In the eſtimate of human concerns, however

ever, the contrary is true. Where human virtue is the means, and external advantage the end, we know from experience, that the means are of more value than the end, and conftitute the happinefs of human life, in whatever meafure the end be obtained, or even where in the event it is fruftrated. To this purpofe, it is obferved by Cato, in Cicero's dialogue concerning the fupreme good, that, although human action is directed to certain external ends of accommodation or fafety, which he enumerates, yet that, from the action itfelf there refults a confideration of much greater moment, than the end or purpofe to which the action itfelf was directed *. In the productions of men, materials are of lefs value than the ingenious defign and execution of the work. And in acts of good will to mankind, the external effect is inferior to the affection of a generous and beneficent heart.

The great object of reafon, however, in thefe obfervations, is not to detach men from a proper attention to the occafions of action, but to qualify them, however the fcenes may differ, to act their part with propriety, or to prevent them from thinking that their good confifts in mere fituation, or in the materials they employ, and not in the nature of the part which they themfelves are free to act, in every fituation, and with refpect to any material.

To few it is left to determine what courfe of life they fhall purfue. The conduct of patrimonial interefts, the cares of family, the duties of public or private ftation, are to moft men fufficient to mark the line or direction in which they are to pafs through

* Cicero de Finibus, lib. iii. cap. 6.

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through life. But, to bear the characters of an ingenuous or happy mind, it is not neceffary that the fituation or line of life fhould be fpecifically adapted. This bleffing is attainable in every fituation, and is the gift of God to every rational creature who knows how to difcharge the prefent duties of his ftation with diligence, benignity, and courage.

Different inftitutions of fociety engage their members in different purfuits. Under fome inftitutions, it is the prevailing object of paffion to become rich; in others, to obtain precedence and titles, or to make a fhow of rank and fortune derived from anceftors. In others, it is the prevailing paffion to be diftinguifhed in the claffes of ftatefmen, of warriors, or orators. But in the fcene of human life, be it conftituted by whatever direction of public opinion, the wife, the ingenuous, and the beneficent will ftill find their place; and it were dangerous or abfurd to wafte, in vain expoftulations, the fpirit, which ought to operate in the beft ufe of our fituation, whatever it may be.

In a little village of the Alps, the attendants of Cæfar could perceive that even there, as well as at Rome, there might be parties and a conteft for rank: And he himfelf could there alfo apprehend the ufual objects of his ambition, fuperiority of power, in refpect to which, he would rather be the *firft in that village* than the *fecond at Rome*. In every department of human life, if there be a vice to be fhunned, there is alfo a virtue to be practifed; and what every man is chiefly concerned to know, is that, even in his village, or in his place, there is occafion to exercife the character of a noble and ingenuous mind, as well as a danger to be incurred on the fide of folly and of vice.

Philofophers

Philoſophers would variouſly teach us; ſome to refer our actions, and to limit our views, to private or ſeparate gratifications; to court an exemption from care and ſolicitude on the concerns of other men; and to fill up the moments of life with the leaſt poſſible trouble or avocation from our own perſonal ſtate and enjoyments. But nature ſeems to require that we ſeek for the intereſting ſcenes of human life; that we conſider our own, and the cauſe of mankind, as common; that we conſider our ſociable diſpoſitions as the better part of ourſelves; and that we willingly ſeize the occaſions which exerciſe the powers of a wiſe and beneficent mind.

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Reaſon, pretended or real, may thus diſpoſe or indiſpoſe us for the ſcene which providence has opened before us. But nature has provided, that the individual can no where ſhake himſelf looſe of his ſpecies, and that if he does not bear his part in ſociety as a friend, he muſt ſuffer as an enemy.

The veſſel, on board of which all men are embarked, muſt be managed and wrought by the common ſkill and labour of the crew, and none can be indulged in exemptions, which, if all were to plead and obtain, would end in the ruin and deſtruction of the whole. " I would reap," ſays Ariſtippus, " what other people " ſow, I would enjoy my pleaſures in a city which others have " built, and labour to preſerve". This conſidered as the choice of an individual may be cunning; but offered as a ſcheme of philoſophy for mankind, is more abſurd than language can expreſs. If the ſlothful mariner, in his wiſdom, fly from the helm, or ſhrink from his watch on the deck, what is to become of the veſſel in which he is embarked, and in which the ſcene of his

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private enjoyments, or intereſts, however real, is likely upon this plan to be of ſhort continuance.

Animals are obſerved to have their native propenſities, from which there reſults a diſtinctive aſpect and manner of life. This obſervation will apply no leſs to man. He too is diſtinguiſhed from his birth. He is deſtined to know himſelf, to obſerve and to chuſe among the ends of purſuit, and his aſpect is different according to the choice he has made, and according to the ability or temper with which he perſiſts in that choice.

Every ſituation may try the ſkill of the perſon who is placed in it; may try his diſpoſition to beneficence, or his neglect of other men, his fortitude and his application to objects that merit the principal ſhare of his attention. *Skill*, *diſpoſition*, *application*, and *force*, are accordingly the qualifications to which we referred, as requiſites in the formation of an active character. And, with a view to which, morality has been divided into a correſponding number of parts or branches, which are termed the Cardinal Virtues, to wit, *prudence* or *wiſdom*, *goodneſs* or *juſtice*; temperance and *fortitude*. This arrangement of the ſubject is familiar in common language, as well as in the ſchools of morality, and points out a method in which we may continue to purſue what remains to be obſerved on the external characteriſtics of a virtuous life.

Wiſdom is the virtue or excellence of the underſtanding, by which a perſon is ſkilful in the choice of his objects, and in the means of obtaining his end.

Goodneſs is the excellence or virtue of a good diſpoſition, from which men venerate the rights and feel for the ſufferings of their

fellow

fellow creatures, from which they are averſe to be the authors of harm, from which they are ever faithful and true to the expectations they have raiſed, and ever ready, by acts of kindneſs and good will, to prevent even the wiſhes of thoſe who by nature or accident are made to depend on their will.

Temperance is the proper choice of our purſuits and applications; or ſuch a meaſurement and regulation of inferior gratifications and deſires as is conſiſtent with the higher and better occupations of our rational nature.

Fortitude is that ſtrength of mind which enables the virtuous man to withſtand oppoſition, to contend with difficulty, and to poſſeſs himſelf in the midſt of danger. It is the foundation of magnanimity, which, when a perſon is called upon to perform any of the more arduous duties of life, inſpires a courage ſuperior to the conſideration of inferior intereſts or concerns. Its principle in the mind is an eſſential conſtituent of happineſs; not only as it qualifies men to encounter with eaſe any real difficulty, diſtreſs, or danger, but as it is an antidote to thoſe imaginary fears and miſ-apprehenſions which conſtitute weakneſs, and a principal article of meanneſs or ſuffering.

Such being the *cardinal virtues*, forming what we may conſider as the firſt and moſt general arrangement of the moral duties, we proceed to conſider their conſequences, or the more particular habits and exertions in which they ſeverally conſiſt. In doing this, the firſt or moſt general title in each diviſion will ſerve as a principle, from which the inſtructions of moral propriety relating to the ſeveral parts may be drawn.

SECTION III.

Of the Characteristics of Prudence or Wisdom.

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WISDOM being a difcernment of the ends which we ought to purfue, and of the means moft effectual for the attainment of them, it fhould feem to include every virtue. For, on the fovereign direction of a mind perfectly apprifed of its good, and of the manner in which that good is to be fecured, we may fafely rely for the rectitude and propriety of our conduct in every inftance.

Wifdom was accordingly fo confidered by the antient philofophers; and, in the imaginary defcription of a wife man, every conceivable perfection of human nature was included.

We are thus difpofed, for the moft part, to fimplify our conceptions, and to feek for fome fundamental principle from which, if we fecure it, every other requifite will follow; but the reality of any fuch principle, even in the government of human nature, may

may be doubted. The love of mankind, which we have affumed as the neareft approach to a general principle of virtue, requires the direction of wifdom and the fupport of courage. Wifdom alfo requires the reality of a benevolent affection, which even the beft difcernment of what ought to be done, on particular occafions, cannot fuperfede.

Among the happieft effects of wifdom, we may reckon the proper direction which a benevolent difpofition itfelf may receive towards the attainment of its end; but if in this, wifdom or prudence is fubfervient to goodnefs, the benevolent affections are often the beft fecurity that judgement itfelf fhall not err: For they often lead to the genuine point of integrity and honour, when a cold difcernment of what is proper for the occafion might fail of its aim.

Wifdom, ftated as one among the cardinal virtues, refers chiefly to thofe duties which refult from reflection, and which terminate in preferving the ftate and character of the individual unimpaired. Such are *decency*, *propriety*, *modefty*, *oeconomy*, *decifion*, and *caution*.

Thefe being the characteriftics of prudence, and the external marks of a confiderate mind, or the effects of habit acquired, together with experience in the progrefs of reafon, they are among the virtues which the Duke de la Rochefoucault fuppofes to owe their merit to reflection, and to embellifh a character the more for being acquired. But, even here, there is a partiality to natural, parts, of which, under the notion of fuperior genius or great ability, men court the reputation, even where they incur its neglect or acknowledge its abufe. It is that which is fuppofed to give to the

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the ſtateſman or warrior his ſuperior luſtre; that which elevates the orator, the poet, and fine artiſt of every deſcription, above the ordinary ranks of men; and we have the folly frequently to eſtimate a merit which ought to conſiſt in a proper uſe of our faculties, by the mere poſſeſſion of a talent, with too little regard to the ſalutary effects which it ought to produce.

The value of wiſdom, however great, is more evident perhaps in its contraſt with folly, than when ſeparately ſtated. "A fool," ſays La Bruyere, "cannot look, nor ſtand, nor walk like a man "of ſenſe. The contraſt thus appears in the moſt trivial, as well "as moſt important occaſions of human life, in every feature of "the countenance, and every action and geſture of the body. "The fool is mortified in being told of his folly, and feels the "imputation of it as a grievous reproach."

What then are theſe characters. When we attempt to analyſe them, the diſtinction, ſhould appear to ariſe, on the one hand, from a diſcernment of what ought to be done, and from a habit of doing it; on the other, from a miſtake, or want of diſcernment of the object, of the occaſion, and of the place, or from a habit of being occupied on occaſions of ſerious buſineſs with objects of inferior value. Such is the folly of the coxcomb, the vain-glorious, the avaricious, the ſpendthrift, and the prodigal, the contemptuous, and the proud.

Wiſdom is the diſcernment of what a man ought to wiſh for himſelf, for his friend, for his country, and for mankind. And ſuppoſing a diſpoſition to act well in all theſe relations, it is the ability with which he may acquit himſelf well on the different occaſions

occaſions to which they give riſe. It has, in every perſon, a particular reference to the conduct of his own affairs. He may, indeed, conſider his benevolence, or good will towards others, as one of the moſt important articles in the predicament of what belongs to himſelf; but ſuch affections belong more properly to their ſeparate articles of goodneſs or juſtice.

Decency, conſidered apart from every other principle of moral obligation, though an article of wiſdom, is that of which the external or phyſical effects are of leaſt moment to human life. It is directed chiefly to ſave appearances, and gives evidence of a mind cautious to avoid what is evil, in matters which, either by opinion, cuſtom, or natural ſenſibility, are rather offenſive than hurtful to others. Its rules, therefore, are prohibitory. and its offices ſometimes conſiſt in avoiding before others, what, when alone, may be innocent, or perhaps neceſſary.

There are men, who, under an affectation of being ſuperior to trifles, ſuffer themſelves to treſpaſs on the rules of decency; but offence unneceſſarily given to our fellow creatures, whatever be the manner of it, is not a trifle; and the poet has juſtly obſerved that "Want of decency is want of ſenſe." The obſervance of this duty, as it is dictated either by the inſtincts of nature, or by the cuſtom of our country, is important, as the preſence of one man is important to another, and the reception which a perſon meets in ſociety is important to himſelf.

The objects of prohibition, which come under this article, might be ſummed up under three titles, *nudity*, *filth*, and *obſcenity*; but of theſe the boundaries are ſufficiently marked in the cuſtom or manners of every nation or age; and to go into any detail with reſpect

to

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to them would be, in ſome meaſure to offend againſt the duty which we mean to enjoin.

Propriety is the ſuitableneſs of action to the perſon who acts; to the occaſion; and to the place: ſo that, although it comprehends decency, becauſe what is proper is alſo decent, it proceeds upon a principle yet more extenſive and leſs depending on local apprehenſions and cuſtoms. Indecency is chargeable only in the preſence of others; impropriety may be incurred by a perſon when alone, as often as he neglects what is due to himſelf or to his fellow creature, or as often as he incurs what is unſuitable to the part he has to ſuſtain, either in reſpect to *rank*, *profeſſion*, or *age*.

There is a propriety, as well as decency, in all the external effects of virtue: In all the effects, for inſtance of good ſenſe, benevolence, and reſolution, theſe are proper to human nature as ſuch, and conſtitute the principal graces or recommendations of the human character; but it is proper to limit our obſervations on this article of propriety, to particulars which are derived from this conſideration alone.

Among the proprietes of high rank, we may reckon the conditions which are peculiarly requiſite to preſerve reſpect; that *reſerve* which avoids improper familiarities; that *candour*, which guards againſt *petulance*, *contemptuouſneſs*, *affectation*, or *ſcorn*.

It is proper, that the claim to ſuperior reſpect ſhould be ſupported by ſuperior accompliſhments of manners and candour; by a ſuperior ſteadineſs and moderation in all occaſional emotions and paſſions, whether of *ſorrow*, *anger*, *mirth*, or *joy*.

The genuine expreſſions or effects of reſpect conſtitute the proprieties of inferior ſtation, in its relation to that which is ſuperior. PART II. CHAP. V. SECT. III.

Reſpect naturally carries a mixture of good will and affection, which breaks forth in the well regulated plainneſs of truth, rather than in flattery or continual aſſent. There is a certain ingenuity required to render a perſon capable of affection and reſpect. It begins with giving a dignity to the manners of thoſe who are poſſeſſed of it, and its attentions bear the moſt honourable teſtimony to the elevation of thoſe towards whom it is directed.

The conceſſions of the ſervile are the effects of *baſeneſs*, *intereſt*, or *fear*, and are proper objects of *diſtruſt*, not of *predilection*, or *favour*.

In the ſociety of ingenuous men, however unequal in point of rank, there is a candour, which, in reſpect to freedom, in reſpect to the diſpoſition to oblige, to receive, and to give information, tends to bring the parties on a foot of equality. It is indeed impoſſible that, in the ſocieties of men, actual advantage of any ſort ſhould ceaſe to have its effect; but, in the company of the wiſe, there is no formal intention to extend, nor any jealous anxiety to ſupport that effect; and the diſtinctions of rank appear more in the attention of the ſuperior to encourage, and in the inferior not to abuſe that freedom of converſation, which conſtitutes the charm of ſociety.

Profeſſions too have their proprieties, which are ever required, not only in formal and profeſſional appearances, but even in the

moſt familiar and unguarded moments of life. This might be illuſtrated by referring to the ſentiments of men reſpecting the proprieties of character, in different inſtances; but the example of what is commonly required to the propriety of manner, in thoſe who are veſted with holy orders, may be ſufficient. While others are indulged in harmleſs levities, perſons of this profeſſion ſhould be at all times not only innocent, but conſiderate to avoid even the ſlighteſt approach to offence.

Among the proprieties of age we may reckon, that diffidence is proper to youth, reſolution to manhood, and tranquillity to the laſt ſtages of life. The young are yet learning to be men, and ought not to aſſume the confidence of manhood, until they have laid the foundations on which it may ſecurely reſt.

In manhood, it is proper that a perſon enter on his part with deciſion and reſolution.

In old age, the vivacity with which paſſions operate in youth or manhood being impaired by the experience or the decline of years, objects appear in their comparative meaſures of importance; and the deliberate mind of the aged is better prepared to inform and to adviſe than to act.

Modeſty ſeems to be akin to diffidence, and they are ſometimes miſtaken one for the other; but they are plainly diſtinct. The deciſive and reſolute may be modeſt, but are not diffident.

Modeſty is the proper meaſure of our claim or pretenſion to conſideration or preference relatively to other men. It is a guard

gurad which wifdom fets over the conceptions of perfonal importance, in which every perfon apart is apt to affume too much for himfelf.

This conceit or conception of importance, when not properly reftrained, is, in the language of a neighbouring country, termed *felf love* *. From this motive, the fool is at all hazards inclined to bring himfelf forward into view, and not only to avail himfelf of any advantage he may have, but to affect more than is real. He is ready to abate of the candour which he owes to others, while he exceeds in the meafure of confideration which he claims for himfelf.

Modefty is founded in natural difpofition, as well as in reflection or reafon, and therefore holds a middle place among the different kinds of virtue diftinguifhed in the paffage that has been formerly quoted from the Duke de la Rochefoucault. The natural difpofition to this virtue, as well as to juftice, is benevolence or the love of mankind. Hence men owe to nature their difpofition to receive with favour the pretenfions of others, and to rejoice at advantages fuperior to their own; while they learn from experience to guard againft the effects of partialiy to themfelves, and to avoid intruding their own advantages, however real, upon the attention of others.

Self-defence, in the cafe of an attack, will juftify the modeft in a fair and manly reprefentation of their rights, but does not authorife unprovoked or unneceffary oftentation of what they poffefs; of what they have done; or of what they have fuffered; much lefs the affectation of fentiments or qualities by which they

* Amour propre.

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would deceive the world into a belief of their own confequence, beyond its real meafure or degree.

Oeconomy is the proper ufe of what fortune has beftowed, whether in the fruits of labour or inheritance.

The term is fometimes employed as fynonymous with parcimony or frugality; and thefe, indeed, are the œconomy of certain conditions, but no more than a particular form of this virtue accommodated to fmall refources. In great fortune, the proper œconomy is not parcimonious, but fumptuous and liberal.

In every eftate, no doubt, it is proper œconomy to accommodate expence or confumption to the fupply which fortune affords. The moft ample fupply may be exceeded by a wafte that is not reftrained within proper limits: So that, whether to the poor or to the rich, the neglect of œconomy will have its pernicious effects. If, to the poor, fortune be no more than the means of fubfiftence, a frugal ufe of fuch means is neceffary to felf-prefervation. If, to the rich, it conftitute rank and power, a proper adjuftment of expence to the meafure of fortune is in their cafe neceffary, to avoid dependance and degradation.

Moralifts have talked fo much of the vanity of fortune, and of its inefficacy to happinefs, that they may be fufpected of encouraging a dangerous neglect of affairs; a neglect by which the labourer may incur indigence and beggary; the trader incur bankruptcy; and thofe of the higheft rank incur much embarraffment, or fink from their ftation.

It

It were indeed far from wiſdom not to avoid ſuch conſequences; but if, notwithſtanding every reaſonable effort of diligence to avoid them, they ſhould be incurred, wiſdom no doubt has its offices in that as in every other emergency. In every event, diligence, equanimity, and fortitude, continue to be the higheſt meaſure of happineſs of which any given ſtate is ſuſceptible.

Whether any one has ſtrength ſufficient, as the philoſophers of old conceived or feigned of the *Wiſe Man*, to be as happy under a diſagreeable reverſe of fortune as in the higheſt proſperity, may be queſtioned; and every one may anſwer from an eſtimate of the ſtrength of his own mind: But it cannot be doubted that the wiſe will endeavour to avail himſelf of his faculties, of his temper and reſolution, in the manner moſt likely to ſupport him, and to repel this or any other cauſe of diſtreſs to which he may be expoſed But if philoſophy have taught him to believe, that virtue alone is happineſs, he muſt not forget upon any event which befalls him, that the proper uſe of his fortune is a virtue, and therefore a part, at leaſt, in that very happineſs on which he is taught to rely; ſo that whoever neglects the proper œconomy of his affairs, whether he err with the miſer in penury, or with the ſpendthrift in prodigality, cannot plead the authority of philoſophy for the folly he commits in either extreme.

The folly of the miſer conſiſts in the admiration of riches, without availing himſelf of their uſe, whether in accommodation to himſelf or in benefit to others, or rather it conſiſts in ſacrificing every advantage of wealth to the paſſion of merely ſecuring the poſſeſſion. The folly of the ſpendthrift proceeds from the oppoſite defect; from a

diſpoſition

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difpofition to wafte in the gratifications of vanity and fenfuality; or from a difpofition to rifk in hazardous adventures, whether of bufinefs or play, the means of fubfiftence, the fecurities of independance, or rank, and the materials of beneficence.

The vain expend their fortunes, and part with them in order to prove the poffeffion. The fenfual multiply expenfive contrivances to procure an enjoyment which palls on the fenfe the more it is courted, or which, carried to extremes, impairs the faculties of the mind, and begets inattention to affairs. In thofe who depend on their labour for fubfiftence, fenfuality is an improper confumption of what they acquire: It occafions a wafte of time and forms a habit of indolence and floth, the reverfe of that induftry on which the fuccefs of their labour depends.

The wants of nature are eafily fupplied, and the gratification of uncorrupted appetite is fully confiftent with the higher and better purfuits of human life: But the voluptuary in acquiring habits inconfiftent with thefe purfuits, is debauched by his imagination rather than by the force of his appetite, or by the folicitations of fenfe. Appetite is confined within narrow limits, and would leave the mind at leifure to employ itfelf otherwife, if it were not prevented by the fruitlefs project of feeking for continued enjoyment where it is not to be found; and in which imagination, becaufe it never is gratified, is always infatiable.

Next to vanity and fenfuality, dangerous adventures in bufinefs or play are moft likely to mar the difpofition to œconomy, or lead to the improper ufes of wealth. The produce of chance is generally fudden, and, when great, takes the minds of ordinary men unprepared for the proper ufe of what they may have gained. The

tranfitions

tranſitions of fortune in ſuch adventures are ſometimes extreme as well as ſudden. When favourable they intoxicate, and eaſily plunge thoſe on whom they have fallen into farther and ſtill more inconſiderate adventures; and ſcarcely admit of any bounds to their courſe, ſhort of ſome fatal reverſe, which cuts off the ſource even of any farther adventure, and leads to deſpair.

In the enumeration of virtues which belong to the underſtanding, or to the ſuperintending exerciſe of wiſdom, were mentioned *deciſion*, and *caution*, habits of a ſeemingly oppoſite tendency, but equally neceſſary to obtain the ends of prudence.

Deciſion is a ſeaſonable and reſolute choice of what the occaſion requires. In the defect of this virtue, and by improper delays, every opportunity is loſt, and every meaſure comes too late. Wavering and fluctuation in the execution of any purpoſe are equal to a total inaction, or, by improper delay until the occaſion is paſt, incur the double diſadvantage of a labour beſtowed, and of its diſappointment or loſs.

Every art may have its deliberations, and the artiſt will decide with advantage in proportion to his ſkill in the particular department to which he is bred. The deciſion which wiſdom requires is a part in the buſineſs of mankind; *æque pauperibus prodeſt, locupletibus æque*; and although a certain felicity of deciſion in great affairs is the peculiar character of ſuperior genius, yet the ſteps of integrity that do not waver in the conduct of human life, are attainable by ſuch faculties of reaſon as ordinary men poſſeſs.

Cicero apprehends, that the queſtions on which we may heſitate in our ordinary conduct may be extended to five in number;

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ber; of which only three had been mentioned by Panetius, whofe method he profeffes to follow in treating this fubject of offices or moral duties. The firft queftion is, Whether the action propofed be right or wrong? The fecond, Whether it contribute to our intereft? And the third may arife where intereft feems to interfere with duty, if it fhould be made a queftion which to prefer? To thefe three he fubjoins the two following; firft: Of two things that are praife worthy, which fhould be preferred? 2*d*, Or, of two things fuppofed to be ufeful, which is moft for our intereft?

In queftions of the firft kind, relating to right and wrong, confcience is the arbiter, and is for the moft part ever ready to decide. Benevolence will lead us to aim at effects which tend to the good of mankind; and a principal object of deliberation in fuch cafes is to diftinguifh with judgement, in what we may actually ferve our fellow creatures, by contributing to their fafety, their welfare, their inftruction, and the good order of the focieties to which they belong.

Queftions of comparative utility, whether refpecting our own advantage or that of other men, are often more problematical than mere queftions of juftice or right. Such queftions occur in private and in public affairs, in the tranfactions of merchants, in the conduct of armies, in the deliberation of fenates and councils of ftate. In all thefe departments genius or natural ability is confpicuous; but in every meafure of natural ability, there is recourfe to experience; and inftruction, which being neceffary even to the moft able, may bring acceffions of wifdom alfo to thofe who are by nature of inferior capacity.

The

The queſtion, of a choice to be made betwixt interfering conſiderations of intereſt and duty, is not to be admitted upon any principle of morality; and although we ſometimes feel for the preſon who is required to make great ſacrifice of intereſt to the obſervance of his duty, we acknowledge the evidence he gives, in making that choice, of decided integrity and virtue; but ſhould ſcarcely admit of an excuſe if he had acted otherwiſe.

As to the additional queſtions propoſed by Cicero, they coincide nearly with the two firſt queſtions which had been propoſed by Panetius the original whom he profeſſes to follow. Upon the ſame principle, by which we determine what is right in contradiſtinction to what is wrong, we may determine what is moſt ſtrictly binding when we are preſſed by calls of duty, of which only one in ſome particular circumſtances can be anſwered. And in queſtions of comparative utility, we muſt proceed in determining what is moſt uſeful, upon conſiderations which lead us to diſtinguiſh the oppoſite meaſures of profit and loſs.

Difficulties of choice are often great in queſtions that admit of delay and of the moſt deliberate diſcuſſion, but ſtill greater in caſes that come by ſurpriſe and require immediate deciſion. Theſe are the trials of ſuperior genius, requiring even together with that natural advantage the proper uſe of experience; and as experience is neceſſary in the exertions of the higheſt capacity, ſo it may be uſeful to the loweſt, and furniſh that meaſure of prudence and wiſdom of which ordinary men are ſuſceptible. From the experience of the paſt, men are qualified to forecaſt what is likely to happen in the future. And may thus be prepared for difficulties, or ready to decide upon them before they arrive.

 Events,

Events, indeed, in the courſe of human affairs, are never determinable in the ſame manner with the events that regularly ſucceed one another in the mechanical ſyſtem of nature. We know preciſely at what hour the ſun will riſe to morrow, but what action the caprice of thought and paſſion may lead a human creature to perform, at that or any other hour, is more than human foreſight can reach, with any confidence above that of mere conjecture.

Where events are contingent, it is an object of prudence to admit into our account the different emergencies that may poſſibly happen, and to ſettle what our judgement and reſolutions ſhould be on the different ſuppoſitions which our experience may lead us to make; ſo that even in caſes of apparent ſurpriſe we may, in ſome degree, have the advantage of premeditation and deliberate choice.

Caution conſiſts in a proper attention to the difficulties likely to ariſe in any buſineſs or purſuit in which we are about to engage. It is a principal feature of prudence, and what indeed in a great meaſure engroſſes the name. We forecaſt the difficulty and expence of an undertaking, that we may not engage in what is above our ſtrength. We attend to the characters of thoſe with whom we are about to act, or whom we are about to employ; that we may not confide in perſons who, either from want of capacity or good faith, are unfit to be truſted.

The paths of human life are ſtrewed with difficulties, and the cautious endeavour to foreſee them, not that they may in every inſtance avoid, but that they may be the better prepared to encounter them. The virtue which they practiſe is to be carefully diſtinguiſhed,

guished, from the weaknefs by which the timid or irrefolute declines every duty, and in proportion as it appears to be hazardous or difficult. Caution is, in contradiftinction to this weaknefs, a refolute purpofe of action, and a collected ftate of the mind in which difficulties are forefeen, and proper meafures are taken to furmount them.

As it is virtuous and noble to proceed in our duty, undifmayed by difficulty or danger, fo it is wife to forecaft the circumftances in which we are about to engage, that we may be prepared to acquit ourfelves properly. In this refpect caution is not an attribute of fear, but is connected with intrepidity, conftancy, perfeverance, and a temper undifturbed in the courfe we have chofen to purfue, in all matters alike, whether trivial or important.

Such is the leffon which Epictetus would teach us to apply on occafions, however trivial, that may poffibly try the temper. As an example, he refers to the public baths which were generally crouded at Rome by a promifcuous concourfe of people. "When "you are going about any action," he fays, "remind yourfelf "of what nature the action is. If you are going to bathe, re-"prefent to yourfelf the things which ufually happen in the "bath; fome perfons pufhing and crouding, fome dafhing the "water, others giving abufive language, and others ftealing; "and thus you will more fafely go about the action *".

The object of caution, according to this celebrated moralift, is not to prevent our engaging in actions that are proper for us to perform, but to enable us to conduct ourfelves properly in the

 duties

* See Mrs Carter's Tranflation of Epictetus.

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duties to which we are called by juſtice, humanity, expedience or neceſſity, however attended with difficult, hazardous, or diſagreeable circumſtances.

SECTION

SECTION IV.

Of the Characteristics of Goodness, or Justice.

AS *Wisdom* is the specific atrribute of Intelligence; *Goodness* is the attribute of mind also beneficently disposed towards others. PART II. CHAP. V. SECT. IV.

We may conceive intelligent beings employed on the subjects of thought, either without encountering any objects of affection; or, without having any concern in the state of such objects, farther than to ascertain their reality; to distinguish their qualities; and to class them under general or specific appellations: In either case, this supreme order of intelligent nature would present but a partial view of itself. But, if we should suppose an individual who is part of a community, yet indifferent to the character of his fellow creature, or indifferent to the good or the ill of which they are susceptible; in such a person, we should still not perceive any thing to be loved, and scarcely to be admired, even in the possession of the highest measures of penetration, memory, or other constituents of intellectual power.

Or

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Or if we ſhould proceed from the ſuppoſition of indifference to that of malice and cruelty, or if we ſhould ſuppoſe intellectual ability employed to deviſe miſchief, and to ſport with the afflictions of others; intelligence itſelf, or ingenious device, thus perceived only in the abuſe of it, would be an object not of indifference, but of deteſtation and horror.

Intelligence on the contrary, that is buſy in obſerving juſt objects of affection, and poſſeſſed of a ſenſibility, to which no being ſuſceptible of happineſs or miſery is indifferent; a mind, which is ingenious in performing acts of beneficence, bears that character of goodneſs of which the veſtiges are ſo deeply marked in the order of nature itſelf, and of which the participation is ſo eſſential to that virtue of which we would now enumerate the branches or effects.

This in the idiom of our language is termed, the virtue of the *heart*; in the language of a neighbouring nation, joined with a juſt elevation of nature, it is termed the nobleneſs of the *ſoul*; (*La beauté de l' ame*;) and is indeed the principal grace of the human character; whether in the conduct of life, or in the productions of genius. Hence the ſovereignty of Homer among the poets of every age; the high rank of Eſchylus, Sophocles, and Euripides among the tragic poets; of Tacitus among the hiſtorians; of Shakeſpeare, and Milton among the poets of our iſland; of Plato, Antoninus, and Monteſquieu among the philoſophers of every age.

To theſe may be emphatically applied the adage of Chremes, in Terence; *I am a man, and nothing human is indifferent to me* *.

Wherever

* Homo ſum; humani nihil a me alienum puto.

Wherever men of this genius touch on the concerns of mankind, the moſt lively colours of good and evil are brought into view; and what they themſelves feel on the ſubject, is, without any formal recommendation communicated to others †. Without this advantage, the brightneſs of mere wit however dazzling, is but tranſient; and ſeldom outlives the period of its novelty: With it works of ingenuity keep poſſeſſion of the heart, and retain their powers undiminiſhed from age to age; in theſe the innocent and the juſt can recognize his patron, or his friend; and enjoys a participation of ſentiments, in which he finds his nature raiſed to a ſpecies of godlike benevolence to the world around him.

Goodneſs in the conduct of life, is an averſion to be the cauſe of harm; it is veneration and love to the worthy; it is candour, and a deſire to redeem the moſt defective; it is pity to the diſtreſſed, and congratulation to the happy; it is that diſpoſition, from which a man, obſerving the rights of his fellow creatures, ſhuns every violation of them with the moſt ſacred regard; from which he feels for their ſufferings, and is ever ready to relieve them; from which he is faithful and true to his profeſſions, or engagements, and ever ready, by acts of kindneſs and good will, to prevent,

† To him the mighty mother did unveil
Her awful Face: The dauntleſs child
Stretched forth his little arms, and ſmiled.
This pencil take, ſhe ſaid, whoſe colours clear
Richly paint the vernal year:
Thine too theſe keys immortal boy:
This can unlock the gates of joy;
Of horror that, and thrilling fears,
Or ope the ſacred ſource of ſympathetic tears.

Gray'e Ode on the Progreſs of Poetry.

prevent or to outrun the wishes of those who by nature or accident are placed within reach of his influence.

The duties of goodness, considered in respect to their principle, may be classed under two divisions; of which the one includes all the modifications of *Innocence*, of which we have supposed the sanction to admit the applications of compulsory law; the other comprehends all the modifications of *Beneficence*, from which the applications of compulsory law are excluded.

There is a certain magnanimity with which the noble minded, in respect to the good offices required from their fellow creatures, limit their own pretensions to the mere effects of justice and of truth; but in performing such offices on their own part, consider the highest acts of generosity and kindness as no more than the discharge of a debt that is due to mankind. While they consider as benefactors to themselves, and fully entitled to esteem and gratitude, the person who is cautious of harm, and who respects the rights of his fellow creatures, they are ever ready to prevent the desires, or anticipate the wishes of those who are placed in their way.

In referring to the offices of goodness, as they may be separately comprised under the titles of *Innocence* and *Beneficence*, we may consider *Fidelity*, *Veracity*, *Candour*, and *Civility* as modifications of the first; *Piety*, *Personal Attachments*, *Gratitude*, *Liberality*, *Charity* and *Politeness* as modifications of the second.

And in extending this title to all the offices of civil and political society, it will include the reciprocal duties of magistrate and subject, as well as the duties of the citizen towards the community

munity of which he is a member. Theſe may be termed the public offices of goodneſs; and to compleat the enumeration of its branches or parts will come to be ſtated in their place.

With reſpect to *fidelity*, conſidered as an article of mere innocence, we may refer to what has been already obſerved on the principle of convention; that to break faith is an injury to the perſon with whom it was plighted. And it is an injury which the innocent will avoid, from motives of mere humanity, without regard to the ſanction of compulſory law, or the force that may be juſtly applied to obtain the performance of a contract. The faithful, accordingly, carry the obſervance of this duty into many tranſactions which the arm of the magiſtrate cannot reach. They would feel themſelves chargeable with guilt if they neglected to fulfil, ſo far as may be in their power, any expectation which they have occaſionally raiſed, or if they ſhould fail in the diſcharge of a truſt for which any one has been reaſonably made to rely on them.

As error and miſtake are in the nature of things pernicious, as they weaken or miſlead the mind, and in the conduct of life may produce indefinite miſchief; *veracity* too, as well as fidelity, is to be reckoned among the neceſſary conditions of a virtuous life. This duty is to be obſerved not only where the immediate effects of miſtake are detrimental, in reſpect to the eſtate or fortune of the perſon deceived, but even where by miſrepreſentation or exaggeration it tends to affect the mind with falſe conceptions of things whether momentuous or trivial. The innocent abides by the truth, becauſe it would be a crime to deceive any one to his hurt. A man of ſenſe will not deceive, becauſe it were folly to diſcredit

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difcredit himfelf; and if fiction were indifferent to any of thefe effects, it is at leaft impertinent and idle.

This duty of veracity, however, does not exclude the ufe of fable, parable, or fuppofition, employed in illuftration of any moral or phyfical truth, nor does it preclude the ufe of profeffed fiction, as in poetry, to multiply agreeable and rational conceptions of the imagination, without any intention to obtrude fable for truth, or fiction for reality.

It is not neceffary to obferve perhaps that the innocent, whofe veracity is guarded by the fingle confideration, that it were injurious to miflead the conceptions of other men in any cafe whatever, will refrain with deteftation from the leaft approach to calumny or falfe afperfion on the name and reputation of his neighbour. Averfion, to be the author of harm, will not only reftrain him from propagating invidious reports, but will infpire him with mercy even to thofe of whom the conduct may have been offenfive; he will not prefs down the load of reproach even where it has been incurred, and will ftrive to hide the error that is paft, or the fault that may in the future be corrected.

Candour alfo is truth, but it is the truth that proceeds from humanity and fairnefs of mind; it is the juft allowance which is given to the pretenfions or merits of other men, even in circumftances, which to the uncandid would render them objects of hatred, as well as oppofition.

The candid would conduct competition, and even refentmen itfelf, with the leaft poffible detriment to thofe who are the ob-t jects of either. He will admit a fact, even where it is unfavourable

able to his own claims. He will be more guarded in cenſuring an opponent than even an indifferent perſon.—Where it is not neceſſary to blame, he will be ſilent; where praiſe is due, he will acknowledge it; and will diſtruſt any prepoſſeſſion in himſelf by which he may be inclined to exaggerate the faults of an enemy.

At the ſame time, unſincere and affected commendation of thoſe we inwardly hate or deſpiſe, is not entitled to the praiſe of candour. This virtue is an effort of truth and veracity as well as beneficence. It ſpurns the unworthy, and ſcorns the affectation of lenity that is aſſumed from weakneſs, or employed by cunning, the better to enſnare or circumvent an opponent.

In competitions of intereſt, the generous and the humane are ſeldom vehement; in competitions of eſteem, they are not apt to be jealous; and the ſecurity with which the candid proceeds, is generally proportioned to his magnanimity, and his deſire to poſſeſs the conſtituents of real merit in himſelf, rather than to derive, whether in reputation or profit, the external fruits or effects of conſideration from others.

Civility is a guarded behaviour to avoid offence even in the inferior concerns of human life. It is commonly joined with politeneſs in the character of good breeding, and theſe virtues or accompliſhments are ſo far connected as they are both the effects of goodneſs, obſerveable in matters ſuppoſed to be comparatively of ſmall moment. They are however frequently and not improperly diſtinguiſhed. The civil avoids to give offence, or any poſitive moleſtation in the ordinary concourſe of men; the polite endeavours to furniſh matter of ſatisfaction and pleaſure. The

first therefore is an article of mere innocence, the other aspires to effects of beneficence and positive service.

The civil are careful not to offend by any effects of inattention or neglect, by any contemptuous reception of what others think or feel, whether by contradiction unnecessarily harsh, by any insult of vanity, affectation of precedence, or superiority of any sort. When ungracious office is necessary, they endeavour to perform it in the least painful manner, and qualify accidental offences with the most unfeigned desire to atone for them.

Where good understanding and good disposition are united, civility will not be wanting. It is not the exclusive appurtenance of any rank or condition, but the feature of considerate humanity, wherever it be found: It distinguished the keeper of the prison at Athens, in administering the poison to Socrates *, no less than the great emperor Aurelius, in his ordinary manner: To him nothing was indifferent in the conduct of life; and even a lesson of civility he had received was reckoned among the favours of Providence; not rudely to criticise

* The particulars here alluded to, are told by Plato in the Phædo nearly as follows,

After Socrates came from the bath, he was seated, and continued silent, when the keeper accosted him in these words, "I know Socrates, that you will not blame me; "but those who are in fault, and whose orders I am bound to obey. In you I have "always met with humanity and mildness of temper, very different from most of "those who are sent to this place. In doing my duty, I am commonly treated with "rage and curses; but, I have not this to expect from you; I trust you know what "my orders are; it is now time to take the draught; and so farewell, be reconciled as you may to what cannot be helped." In saying this, he turned about to depart, and burst into tears. How civil the man is! said Socrates, It was thus he would frequently come to amuse me with his talk, and strove to oblige me; and now how kindly his tears are shed: But let us mind his directions. Do Crito, if the draught be mixed, cause it to be brought.

" ticife any folecifm or impropriety of expreffion or pronuncia-
" tion; but in continuing the converfation, to pronounce the word
" again, in a proper manner, either by way of anfwer or enquiry;
" or as if to confirm what was faid, and not as anxious about the
" expreffion; or in fhort, by fome other fkilful addrefs to fet the
" perfon right *." But, with whatever degree of fimplicity it may operate, it is ftill pereceptible to thofe who can diftinguifh the genuine, tho' feemingly feeble or negligent expreffions of a benevolent mind. The ingenious peafant is civil, no lefs than the well educated gentleman, if together with a difpofition not to offend, there be underftanding to diftinguifh what would be offenfive: But where either of thefe qualifications is wanting, men are apt to meafure the obligations of duty by the mere external effect, and either do not know in what they are rude, or think themfelves entitled to do or to fay whatever does not materially affect the perfon or property of thofe with whom they converfe.

Civility is a habit very generally acquired in the practice of fociety, where experience and knowledge of the world confpire to enforce the duties of good fenfe and of innocence. Here it may be confidered as artificial, and they who are difpofed to violate the rules of good breeding accordingly charge the well bred with infincerity or falfehood. In their opinion, rudenefs alone is fincere; and a mannerly attention not to offend in trifles, a mere mafk of hypocrify.

The rude who are fo apt to think an attention to others the effect of hypocrify or falfehood, are equally inclined to confider the civilities which are paid to themfelves, as a tribute of confideration due

* Vid. Grave's tranflation of Antoninus, l. 1. c. 10.

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due to their perſonal importance or ſpecial merit; but the crimes of rapine and murder are not a more certain, though a more pernicious evidence of a baſe and ungenerous mind.

Civility, conſidered merely as the habit of avoiding offence, is the firſt and moſt indiſpenſible part of good breeding; and may give to a converſation in which there is no ſolicitude to pleaſe, or deſign to flatter, all the form which is neceſſary to render it highly agreeable as well as inſtructive.

So far this branch of goodneſs, conſiſting in reluctance to be the author of harm, may appear to be a mere negation of evil, an exemption from malice, or any of its external effects; but when we conſider, among the general duties of candour, what a guard is neceſſary to ſecure the mind againſt the formation of prejudices; to ſecure it againſt the effects of real or apparent provocation; or what force of mind is required to preſerve it untainted with jealouſy or envy, in the competitions of men, as well as to prevent any external effect of theſe malignant diſpoſitions; it is evident, that the modifications of innocence are not to be ſupported without high meaſures of regard, and good will to mankind. It is even eaſier on many occaſions to perform the moſt ſplendid acts of beneficence, than it is upon all occaſions to maintain this uniform tenor of an innocent and unoffending life.

Beneficence, nevertheleſs, is ſuppoſed to be raiſed a ſtep higher in the ſcale of the virtues than mere innocence, which terminates in refraining from harm. The catalogue of the bleſſed is accordingly made up by the poet, of ſuch, as by poſitive efforts of

benevolence or magnanimity have promoted the progrefs, or contributed to the welfare of mankind. * PART II. CHAP. V. SECT. IV.

Among the modifications of benevolence, *piety* to Almighty God, is juftly entitled to the firft, and the higheft place.

This affection of mind is fufceptible of indefinite gradations, beginning in this its higheft pitch, modified by veneration only, without the poffibility of any beneficent effect towards its object, and defcending from thence, to what may be confidered as its ordinary tenor among created beings, where the object, though efteemed or refpected, may alfo on occafion infpire tendernefs, or move commiferation and pity.

Wherever true benevolence operates, and the being of God is perceived, there piety to him muft operate alfo; not as a principle of beneficence towards its object, but as the firft and moft effential form of an affection, of which the objects are wifdom and goodnefs in the degree, whether fupreme or fubordinate, in which they are conceived to exift.

This affection conftitutes religion in the human mind, and has its external expreffions and effects alfo. It is naturally expreffed in terms, and in rites of adoration. "What elfe can I, "fays Epictetus, a lame old man do, but fing hymns to God. If "I were a nightingale, I would act the part of a nightingale: "If I were a fwan, the part of a fwan. But fince I am a rea-"fonable creature, it is my duty to praife God. This is my bu-"finefs;

* Hic manus ob patriam pugnando vulnera paffi,
Quique pii vates, et Phœbo digna canebant,
Inventas aut qui vitam excoluere per artes,
Quique fui memores alios fecere merendo.
Virgil, Lib. 6to.

"finefs, *I do it.* Nor will I ever defert this poft as long as it is "vouchfafed me; and I exhort you to join in the fame fong *." It has a natural effect in rendering man the friend of mankind, being the family of a common parent, to whom the higheft duty, that can be rendered is beneficence to the creatures he has made: So that the man who ftates himfelf as a willing inftrument in the hand of his Maker for the good of his fellow creatures, is he whofe piety renders the moft acceptable fervice to God.

Although piety in its proper acceptation is a fentiment of religion, the term is neverthelefs, by a kind of figure, employed to fignify any high meafure of veneration or love which we pay to any of our fellow creatures who are raifed above the ordinary rank of men in our veneration or efteem. Thus it is *piety* in the child to love his parent. It is piety in the dutiful citizen to love and refpect the juft and beneficent magiftrate who, more by his wifdom and his care than by his power, appears to be the vicegerent of God.

But in every inftance of good will to men, the effects of a benevolent difpofition may reach the object of it in beneficent and pofitive fervices; and may be confidered among the characteriftics of a *focial attachment*, upon whatever ground of connection it be formed.

Under this title we may confider the relations of confanguinity, of neighbourhood or acquaintance, as well as attachments of predilection and choice, more properly termed the connection of friends.

In

* Mrs Carter's tranflation, Book 1. c. 16.

In the relation of conſanguinity men are not at liberty to chuſe their objects. They may be aſſociated together without eſteem, affection, or confidence: yet there are certain duties which God and nature ſeem to require in the benevolent towards his kindred, although he may not apprehend any perſonal merit on which to ground any particular eſteem or affection.

The child cannot chuſe what ſort of parent he would have, nor are the wiſhes of the parent always gratified in the character of his child. Brothers are placed in the ſame rank together by the appointment of nature, in which their choice is not conſulted; yet in all theſe inſtances there is a duty which nature has impoſed, and in exemption from which, even the plea of demerit in the perſon to whom the duty refers cannot be admitted. The parent muſt not abandon or neglect even his profligate child, nor the child fail in attention and reſpect to the parent, even of whoſe failings and weakneſſes he is moſt ſenſible. Brothers muſt not ſhrink from one another, even in caſes of high demerit, nor leave, as a ſtranger might be left, even the guilty to periſh unaſſiſted under the effects of his guilt. The ties of conſanguinity ſeem to be intended by nature as a ſpecial bond of ſociety by which the dulleſt of men are mutually pointed out to one another as objects of conſideration, even if they ſhould not be ſenſible to the ties of humanity or merit under which they are placed to other men.

This principle, indeed, is perhaps more frequently abuſed as a ſource of undue partiality to thoſe of our own kindred, or as a ſource of uncandid animoſity to others or neglect of their merits, than it is ever entirely wanting in the diſpoſition of individuals towards

the family of which they are members, and in whofe fate they are themfelves in fome meafure involved.

Among the examples of perfonal attachment, that which proceeds on the fympathy of affections directed to the fame worthy objects; on the predilection of merit and unlimited confidence, is that which peculiarly merits the appellation of *Friendfhip*, and in which the parties may be faid figuratively to have but one heart, one mind, and one intereft.

In forming this connection the higheft meafures of probity are required. Virtue, operating in the minds of different men, may concur in all its external effects, but folly and vice are jarring and incongruous principles, which, in the degree in which they take place, render men unworthy and incapable of this facred connection.

Intimacies of a different kind, confifting merely in acquaintance, or in a habit of affociating together, are commonly enough known under the title of friendfhip: But the maxims or precepts which are applicable to one meafure or degree of connection cannot be fafely or properly transferred to another. There cannot be any referve, for inftance, in that entire affection and confidence which we fuppofe betwixt friends, and no limit to their friendly exertions, without a breach or forfeiture of the rights which friendfhip implies. In connections of inferior degree, it may be fufficient not to offend or not to neglect the duties of humanity which occafions prefent. In this inftance, a more active principle is required, and the occafions of perfonal fervice not only taken when offered, but induftrioufly fought for.

We

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We are told of a maxim which ſome of the wiſe have preſcribed, and others have reprobated : " *Live with your friend as with " one who may become an enemy*". This maxim is prudent in the occaſional co-operations of intereſt or party. The perſon who ſupports me to day, becauſe it is his intereſt to do ſo, may wiſh to overthrow me to morrow, if an oppoſition of intereſt ſhould take place. It may be prudent, therefore, not to furniſh him as a friend with arms, which he may afterwards turn againſt me as an enemy. But this maxim, applied to the caſe of parties united by mutual conviction of unalterable worth, entire affection, and unlimited confidence, would be altogether prepoſterous, and cannot be adopted without diſcontinuing the connection of friendſhip, or ſtifling the affection in which it conſiſts.

Friendſhip or intimacy, of whatever degree, preſuppoſes acquaintance or ſome occaſional connection, in which the parties have an opportunity of being mutually known. Among ſuch connections, *Conſanguinity* no doubt is one, under which parties have occaſion to give the moſt ſenſible proof of the degree in which they are mutually or ſeverally qualified to become objects of confidence and affection. Nature has given to the parent a predilection for his child, which affections of the pureſt friendſhip may equal, but cannot exceed ; and the return on the part of the child, being the natural recoil of the moſt tender affection, is ſcarcely avoidable ; but ſtill ſentiments of this nature are diſtinguiſhable from the attachments founded in the preference of eſteem and the freedom of choice. The friend who has miſtaken his object, and become attached to a perſon unworthy of his affection, may become cold and indifferent as ſoon as he has detected his error ; but the parent weeps when he has made ſuch a diſcovery

 reſpecting

PART II. CHAP. V. SECT. IV. respecting his child, and the child is abashed when he cannot vindicate the character of his parent.

The fortunes of men are sometimes involved in those of their kindred: Although we distinguish therefore the specific principle of consanguinity from indiscriminate affection and good will to mankind, yet it appears, that nature in planting the instinctive affections which unite the members of a family together, and which may extend to a numerous kindred, has in this manner sown the seeds of a boundless society. Or seeming only to connect individuals of a narrow circle together, has formed a chain, whose links being continued in every direction, extend far beyond where personal acquaintance or choice would reach.

Happiness, we have had occasion to observe, is an attribute of the mind, and benevolence, in the several forms of which it is capable, is a principle constituent of this attribute or condition of mind. It is happy to meet with an object of affection. It is happy to perceive the returns of confidence and love. The external effects and expressions of such reciprocal dispositions in the minds of men are highly agreeable, and may be of the greatest use; but still, in estimating the happiness of friendship, we return to the mutual affection itself which takes place between friends, and is the principal constituent of its value. The external effects of benevolence may be intermitted for want of occasion, but the affection itself cannot grow cold without causing the enjoyment it brings to cease.

In considering connections of choice, the first subject of casuistry or moral instruction must relate to the choice itelf, or the discernment of its proper object.

As

As the proofs of merit may be ſlowly collected, it is evident, that confidence of the higheſt degree is to be cautiouſly given, and in the reſult of time and continued experience. The firſt requiſite in the character of a friend, doubtleſs, is probity and good intention. Intimacy with the profligate is a ſnare to the innocent.

A ſecond quality, and likewiſe in a high degree neceſſary, is underſtanding, or what is commonly termed good ſenſe. The ſociety of fools is the accumulation of folly. Whoever is deficient in point of judgement or underſtanding may hurt where he means to ſerve, and often from mere weakneſs of mind, without any intention to betray, fails in the truſt which is repoſed in him.

The ingenuous will value the affection of his friend more than any of its external effects; but in gratifying the ſenſe of his own mind, will be ever attentive to obſerve in what manner he may be uſeful to his friend, and it is in bearing the important character of a beneficent and truſty aſſociate, that perſons are moſt likely to win the affection and confidence of thoſe with whom they are deſtined to act.

The worth of a man is made known by its external effects; and though external effect is ſubordinate in value to the affection of mind, yet neither this nor any other connection in the minds of men could exiſt otherwiſe, than by means of the external effects and appearances which cauſe them to be mutually known.

To a young man, who complained that he had no friends, and

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was generally neglected, "Confider," faid Socrates, "what "are your own merits. Are you of fuch value to mankind, as that "any one fhould fingle you out as an object of predilection and "friendfhip? If you were of fuch value, the world knows its in-"terefts too well, to neglect or overlook you. Shew yourfelf a-"ble and willing to act the part of a friend, you will find many "to folicit your favours, and fome who will deferve your high-"eft confidence."

A perfon, who in the manner of this young man laid claim to the attention and friendfhip of others as matter of intereft to himfelf, was very properly called upon to confider in what degree he beftowed upon the intereft of others that confideration which he required to his own; but the fires of affection and benevolence, which are kindled in the human breaft on occafion of external marks of affection and good will, greatly furpafs in value thofe external occafions on which they are kindled.

Gratitude, the third article in our enumeration of the characteriftics of beneficence, is in the mind of the grateful the fenfe of a benefit received, and among the external duties of life it is an effort to repay with affection the favours which have been done.

Benefits may take place between ftrangers and perfons unknown, and may proceed from any occafional emotion of good will or compaffion, as well as from eftablifhed fentiments of perfonal attachment. But wherever an act of kindnefs is done, a proper return is conceived to be due; it is conceived to be due to a ftranger or perfon unknown, who has done a good office, even more than to a relation or a friend.

As the fenfe of an injury done to ourfelves is different from the fentiment

ſentiment of indignation at wrongs in general, ſo the ſenſe of a benefit received is different from the general approbation or eſteem of beneficence; and where actual favours are conferred, we conceive a ſpecies of debt to be contracted by the perſon who has received the obligation; we ſometimes paſs from the idea of a debt of gratitude, as it is ſometimes called, to the requiſition of penal ſtatutes by which we would enforce the diſcharge of it. Such we are told was the policy of ſome ancient nations, who in their wiſdom, "highly worthy of imitation," did not neglect to puniſh the ungrateful, any more than thoſe who were guilty of any other crime pernicious to ſociety.

There is not however ſufficient reaſon to believe, that ſuch was ever the actual policy of any nation whatever. Such a policy would tend to place the relation of parties who beſtowed or accepted a benefit upon a very different footing from that upon which beneficence and even gratitude are ſuppoſed to proceed. Where the law would enforce the returns of good will, it would be difficult to diſtinguiſh an act of kindneſs from an intereſted loan; or the acceptance of a favour from the contracting of a debt. For this purpoſe of law the preciſe value of a benefit ought to be fixed, in order to eſtimate the return; and the proſpect of gain, or the neceſſity of compliance, ſubſtituted for kindneſs in the exchange of good offices, would totally alter the nature both of the benefit and of the return. A benefit offered might be conſidered as a ſnare to be carefully ſhunned, until the meaſure of the expected return was aſcertained; and in this manner, what ought to be the ſpontaneous effects of benevolence could not be diſtinguiſhed from the traffic of intereſt.

In

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In reſpect to this duty of *gratitude*, therefore, as well as in reſpect to every other act of beneficence, the neceſſity of keeping diſtinct the ſanctions of morality from thoſe of compulſory law is extremely evident. We enforce the payment of a debt, that perſons in poſſeſſion of property may be ſafe to lend; but we only commend or enjoin the duties of gratitude, that the benevolent affections may have their natural ſcope in the ſocieties of men.

Whoever ſtrives to enhance the value of a benefit which he himſelf may have done, and urges the claim of gratitude too far, offends againſt the moral principle of beneficence, not leſs than he who appears inſenſible of the kindneſs he has received, and there is not in the nature of things ſurer evidence of a mind that deſerves no return, than that of upbraiding others with the benefits which we ſuppoſe ourſelves to have conferred.

Liberality is a character of unreſerved beneficence in matters agreeable or obliging to others. It is a natural effect of diſintereſtedneſs or cordial affection, but is obſerved to be unequal in perſons perhaps originally of equal good diſpoſitions, when warped by different habits in different conditions of life. Men become illiberal in a ſtate of dependence, under perſonal awe and under the neceſſity of attending to ſordid or trivial conſiderations. They eſcape this defect in oppoſite circumſtances, of independance, freedom, or exemption from ſordid concerns: And there is a certain force of mind above it in all ſituations.

The effect of external condition is to give ſcope to original diſpoſition, not to inſpire it. The country gentleman, without any uncommon degrees of generoſity, ſurrounds his dwelling with

pleaſure

pleafure grounds, and fubftitutes ornament for gain. He would make every one feel, in the manner of expending his fortune how little he regards the returns of profit. And yet, even in this, he retains what may be termed a fordid predilection for fubjects which he is pleafed to call his own. Beauty is no man's property, and may be made to pervade the face of a country without regard to this circumftance. The liberal may beftow it on fubjects of public concern, on high-ways, bridges, barren hills covered with wood, and public places adorned with monuments of diftinguifhed men or diftinguifhed events; and all this without expecting any returns of admiration or profit. As the Almighty makes his fun to fhine on the evil and on the good, the liberal is not checked by any fuppofed want of merit in mankind; he can reftore a plantation which the mifchievous idler has deftroyed, reftore its number on the mile-ftone which has been defaced, or repair the parapet which has been broke down.

Such might be termed the luxury of a liberal mind in great wealth: But liberality is not, as we are fometimes inclined to fuppofe, peculiar to the rich, nor limited to the beftowing of gifts or the conferring of favours. A perfon may be liberal in his commendations of merit, in his conceffions to a rival, in his manner of treating an enemy, in his neglect of petty advantages, in his impartial and indifcriminate attention to perfons entitled to his regard, and in the general franknefs of manner with which he tranfacts any bufinefs, without jealoufy or mean diftruft, and without any harfh interpretation of the words or actions of thofe with whom he is concerned. He may be liberal in doing with a cordial alacrity even what the law would oblige him to do. The character of liberality, in fhort, is that freedom and noble-

neſs of manner with which the ingenuous upon every occaſion do what is right; not as a part they have ſtudied, or a taſk to which they ſubmit, but as a part which is natural to them, and as a pleaſure in which they indulge themſelves without deſign or reflection.

The proceedings of a liberal mind at the ſame time are the expreſſions of an upright intention; and far from being indiſcriminate in the choice of their objects, the liberal ſpurn and awe the unworthy with the ſame irreſiſtable effect that they gain or encourage perſons of an oppoſite character; they appear indeed to be ſecured from miſtake in the choice of their objects, only by a kind of inſtinctive diſcernment, without difficulty, heſitation, or anxious reflection.

Charity is the character of beneficence exhibited in relieving the diſtreſſed. It proceeds from that ſpecific form of benevolence which is termed commiſeration or pity. As the diſtreſſes of men are various, the motives of humanity in the different tranſactions of life may operate to a variety of effects. From ſuch motives the generous victor may ſpare the vanquiſhed and releaſe the captive, as the charitable will feed the hungry, clothe the naked, or viſit the ſick.

In the variety of diſtreſſes incident to human life, the rich may have their ſhare and their claim to relief as well as the poor; though in the common uſe of this term, it is limited to thoſe acts of beneficence which the rich are peculiarly in condition to perform, and of which the poor may receive the benefit.

Wherever

Wherever property is eſtabliſhed, it comes of courſe to be unequally diſtributed. It accumulates in the poſſeſſion of ſome, and is entirely wanting to others. As this inequality may be traced to its origin in the unequal diſpoſitions of men to induſtry and frugality, as well as more caſual advantages, ſo it ſerves to maintain, in the moſt proſperous and wealthy ſocieties, ſome remains of that neceſſity which nature has intended for the ſpecies as a ſpur to their induſtry and incentive to labour. If the wealthy are relieved from the neceſſity of toil, or may chuſe the objects of their purſuit, the poor ſtill remain ſubject to this neceſſity; and few are exempted from every application that may contribute to enlarge the ſtock or promote the welfare of their community.

The inferior ranks of men, even where they are not urged by neceſſity, are, by ambition, and by ſtriving to gain for themſelves the advantages which they obſerve in the poſſeſſion of the rich, excited to promote or increaſe the wealth of their country.

As we may venture to aſſume that the wealth of nations conſiſts in the labour of the poor, or in the induſtry and ingenuity of thoſe who are deſirous to make for themſelves acquiſitions of fortune; ſo to the poor, health, ſtrength, and whatever elſe qualifies men for daily labour and ſucceſsful purſuits, are the inheritance which nature has provided, and the uſe which they make of that inheritance is the ſource of wealth and proſperity to the community of which they are members.

If the uſe of induſtry or labour could be entirely ſuperſeded in any ſociety, or, in other words, if the poor could be ſupported

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gratuitoufly, this would be to fruftrate the purpofe of nature, in rendering toil and the exercifes of ingenuity neceffary to man; it would be to cut off the fources of wealth, and, under pretence of relieving the diftreffed, it would be to reject the condition upon which alone Nature has provided, that the wants of the fpecies in general fhall be relieved.

For thefe reafons, poverty alone is far from being a fufficient recommendation to charity, and the undiftinguifhing practice of this virtue would be highly pernicious; as by enabling the poor to fubfift in idlenefs, it would deprive them of one great prefervative of their innocence, and a principal conftituent of happinefs, the habit of regular induftry; and deprive the community of its beft refource, the labour of its members.

It is a wife maxim therefore in every well ordered fociety, that no perfon able to earn his bread, fhould be maintained gratuitoufly; that the feeble fhould be affifted in fupporting themfelves, but that they only who have no bread, and are unable to earn it, fhould be maintained by charity. This indeed is a condition to which the induftrious poor, or fuch as depend for fubfiftence on their daily labour are frequently reduced; whether by old age, difeafe, or misfortunes. In every fuch cafe, they have a claim not only upon the humanity and compaffion of the rich, but upon the juftice and good policy of their country alfo.

Their claim upon the humanity of thofe who have it in their power to relieve them, is doubtlefs irrefiftible; but it is of too ferious and important a nature in the view of good policy, to reft the provifion of the neceffitous poor entirely upon this principle.

As

As the labour they beſtow when able to work, may be conſidered as employed in the public ſervice; it is but juſt, that the public ſhould charge itſelf with the care of thoſe, who by age or misfortunes are become unable to ſubſiſt themſelves.

In whatever manner public proviſion is to be made for the neceſſitous poor, whether by Hoſpitals and places of public reception, or by diſtributing the ſupplies of neceſſity to the private habitations of thoſe who are entitled to receive them, is a queſtion rather of public œconomy and good policy, than of moral duty.

We may however obſerve on this ſubject, that where the public has provided moſt effectually for the relief of ſuch neceſſities as are publickly known, ſtill much remains to be done in private charity; there muſt ſtill be many perſons who, although they cannot or will not eſtabliſh their claim to a public ſupport, may be ſo well known to individuals, as to entitle them to all the attention which humanity and compaſſion can beſtow. In ſuch caſes frequently the benevolent have an opportunity to taſte the ſweeteſt fruits of beneficence, where it is at once proper to beſtow, and to conceal its effects.

Beneficence, under moſt of the characters we have now mentioned, whether *friendſhip*, *gratitude*, *liberality*, or *charity*, may be ſuppoſed productive of ſome material effect, and be ſenſibly uſeful to thoſe who are the objects of it. The benevolent affections, however, may ſubſiſt where ſuch effects are ſeldom wanted, and where good will, eſteem, or the manners they produce, are nevertheleſs the principal ſource of enjoyment: And goodneſs may operate with ſignal advantage, where the effect is no more than the expreſſion by which the beneficent intention is known.

Goodneſs,

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Goodneſs, we have obſerved, in the form of civility, may be conſidered as an article of mere innocence, or the effect of a diſpoſition to avoid offence. In the form of politeneſs, it is a poſitive diſpoſition to oblige; a diſpoſition, in the exerciſe of which the benevolent find occaſion of good offices, where neither the profit, nor the ſafety, nor the perſonal accommodation of parties are at ſtake. It my operate on every occaſion, in efforts of attention, good will and reſpect; when we confer, or when we withhold the objects of choice or requeſt. The firſt is done with a liberal promptitude, the other with an unaffected regret.

The polite is attentive to the habits, expectations, and feelings of thoſe with whom he converſes: He would prevent their requeſts, by anticipating the effects; and would conceal his own wants, where the knowledge of them might importune or diſtreſs thoſe to whom he is unwilling to be troubleſome.

The duties of politeneſs, compared with thoſe of other virtues, carry the idea of ſlight obligation. They are termed good manners, becauſe we conſider the manner more than the effect, and they are ſuppoſed to terminate in ſome trifling forms, which any one that is willing may acquire by rote. There are no doubt ſome pretenſions to good breeding, of which theſe obſervations are true, but conſidered as an article of beneficence, there is not any duty in which good ſenſe, ſincere benevolence, and candour are more neceſſary.

Without diſcernment, the affectation of politeneſs becomes a ſource of moleſtation and trouble; without benevolence, it is a mere oſtentation of ſuperior breeding. Its forms, like the words of

of a language, may have been arbitrary in the original ufe of them, but when eftablifhed, convey the meaning of perfons, who fpeak, in a way that entitles them to efteem and confidence, or, on the contrary, renders them objects of difguft or offence. PART. II. CHAP. V. SECT. IV.

As the language, fo the manners of particular focieties may differ; and as a perfon may not be able to fpeak with propriety where the language is foreign to him, fo he may not appear with accomplifhed politenefs where he is unacquainted with the ordinary forms of behaviour, or where he is altogether unpractifed in the obfervance of them.

Whatever the habits of fociety may be in fuch matters, they are no doubt fooneft and moft effectually acquired where the intercourfe of men is moft clofe and frequent; and the manner of this intercourfe, confidered apart from any actual effect, is fuppofed moft important.

From this confideration it appears that the name of politenefs, both in Greek and in Latin, took its origin from an idea, that to be polite was to have the manners of the town, in contradiftinction to thofe of the country *.

Apart from the confideration that the feelings and wifhes of men may be better underftood in the habits and manners of one fociety, than they are in thofe of another; it is certain, that where focieties differ in point of manners, on whichever fide the advantage of fuperior intelligence may lie, perfons of the beft difpofition

* In Greek the polite was termed Αστειος, and in Latin *Urbanus*; and from the latter of thefe terms, we confider urbanity in contradiftinction to rufticity.

poſition may appear defective in politeneſs, where the manner of ſhewing it is not familiar to them; but this no more incapacitates the peaſant for politeneſs in the city, than the citizen for politeneſs in the country. If the peaſant appears ruſtic in the town, the citizen may appear frivolous, ignorant, or affected in the country; and of the two that perſon is moſt deficient in breeding, who is fartheſt gone in the miſtake, that the local habits of a ſociety to which he himſelf is accuſtomed, are the ſtandard of good manners to mankind.

The real ſtandard of manners, ſo far as it can be collected from external expreſſions, is the ingenuity, candour, and diſpoſition to oblige, from which thoſe manners proceed.

The habits which the mind may have acquired in thoſe important reſpects, may be traced to the objects of eſtimation, which men in different ſocieties have been led to adopt. In ſocieties where men are taught to conſider themſelves as competitors, and every advantage they gain as comparative to that of ſome other perſon, the conſcientious may be faithful and true to his engagements, in what he is pleaſed to think matters of real concern; but the emulation in which he has been nurſed is a fretful paſſion; and politeneſs, under its influence, cannot be any other than an effect of diſguiſe. The intereſted and ſordid make no allowance for good or ill offices that neither fill nor empty the pocket. With ſuch perſons as theſe, even virtue itſelf is illiberal, and kindneſs unmannerly.

For this character of goodneſs, which is diſtinguiſhed in the offices of mere good breeding, it ſhould ſeem, that we muſt reſort to the company of thoſe who are leaſt actuated by ſordid

cares,

cares, by perfonal jealoufies, or by any confideration of intereft which in the ordinary fociety of men can be brought into queftion. In company of this fort, men are accuftomed to lay a proper ftrefs on the effects of good fenfe and benevolence, however little their fortunes may be affected by them. Whilft in focieties of a different defcription, they run the hazard of an oppofite character; may be juft and beneficent in what they term articles of moment, but from an affected indifference, or real infenfibility to what they confider as matters of inferior value, are fullen, contemptuous, or negligent on may occafions, on which benevolence and good will might contribute effentially to the happinefs of human life.

Men are thus likely to be polite where the habits of life are likely to be liberal; that is, where benevolence is not ftifledby fordid cares, oppreaffed with dependence, awed by fubjection or mean apprehenfions of danger. We are to look for this character, therefore, in the higher ranks of life, or to hold the defect leaft excufable if it be wanting there. It is not indeed a neceffary accompaniment of riches or luxury; it is found amidft the poverty of rude nations, and in the fociety of men leaft acquainted with the arts of accommodation. There ignorance of the ordinary conftituents of intereft fecures the mind from the meannefs of fordid and illiberal competitions, and the very favage, exempted from the teafing regards of perfonal vanity by his paffion for the real and fuperior diftinctions of courage and fortitude, preferves, we are told,* in the fociety of his equals, a good breeding and refpectful attention that is not excelled in the higher circles of polifhed fociety. It is part of his dignity to remain unmoved by novelties, to be ferious and courteous in his ordinary manners, and

* Vid. Charlevoix's account of the original Natives of North America.

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and he is no lefs agreeable and infinuating in the character of a friend, than he is terrible and dangerous in that of an enemy.

To need nothing and to poffefs every thing are, perhaps, equally favourable to that liberality and politenefs of manners which we commonly confider rather as the polifh, than as the effential conftituent of goodnefs. The naked inhabitant of the Pelew Iflands accordingly appeared to poffefs all the attention to oblige, and all the reluctance to intrude or importune, which, in the polite circles of Europe, diftinguifh the accomplifhed gentleman.

To what purpofe then, it may be afked, fhould we know all this; if the models of good behaviour may be taken even from thofe who are leaft inftructed in the ufe of them.

Men are happy fometimes in the abfence of incentives to evil: But where evil obtrudes, it is the nature of man to act from what he knows to be good, and in oppofition to what he conceives to be evil. Where he cannot be ignorant, it is proper he fhould not be deceived, and where his virtue is in queftion, he fhould be accuftomed to revolve in his mind the real conftituents of a virtuous life.

The obfervations now made on the characteriftics of juftice and goodnefs, relate to human nature at large, in whatever relation of fellow citizen, or alien, of magiftrate, or fubject. As the benevolent will be humane to his fellow creature in every relation, in that of fellow citizen he will be candid and beneficent; in that of magiftrate he will be diligent and inflexibly juft; in that of fubject he will be refpectful and orderly.

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To theſe we allude under title of the public offices or duties of juſtice and goodneſs, comprehending protection on the part of the magiſtrate, allegiance on the part of the ſubject, and public ſpirit the common duty of citizens in every rank or condition of life.

The relations of men in ſociety, conſidered in reſpect to their origin, are frequently caſual. In their progreſs they acquire the force of convention; and as conſtituting the form on which the peace and wellfare of ſociety depends, are to the benevolent the moſt real and the principal objects of attention and reſpect.

The dutiful and juſt citizen may on occaſion conſider what he has a right to enforce, that he may exact no more; but does not ſo much conſider what he himſelf may be forced to do, as what in goodwill to his fellow creatures, he ought to perform.

On the part of the ſubject, and under the title of *Allegiance*, are included *Fidelity*, *Deference*, and *Submiſſion* to the will of the Sovereign or Magiſtrate. This is the head of the ſociety, and is therefore an oſtenſible or principal object of that affection we bear to the ſociety itſelf; his virtues are the ſecurities and bleſſings; his authority is the ſource of peace and good order to the whole.

Unhappy is that ſubject, who can miſtake for *Liberty*, a diſreſpect to the perſon of the magiſtrate; and who can perceive no beauty in the gradation of influence, or diſtinction of ranks, in which providence has made the order of ſociety to conſiſt.

Equally unhappy on the other part, is that magiſtrate or ſovereign, who can miſtake the inſtitutional powers of his ſituation for a conceſſion of property to him in the perſons, effects, or ſervices of the people. He has power indeed to do harm, as well as good; but this is not peculiar to him; the robber and the aſſaſſin partakes in it with him, and with this ſingle difference, that the latter in his attempt to do wrong expoſes himſelf more; and where the miſchief is equal, is to the whole amount of his courage the better man. But as the actions of men in every relation are mutually important, and as every one has it in his power, ſo no one is exempt from hazard or riſk in his attempt to do harm. The tyrant is fearful in the midſt of his guards, and many of his cruelties are mere acts of precaution againſt the reſentment he has already incurred.

But if power be ſometimes obſerved to corrupt thoſe who are entruſted with it, the benevolent magiſtrate or ſovereign has greater advantages towards forming his mind to humanity and juſtice, than thoſe of more private ſtation. The concerns of his fellow creatures are more immediately his own: The commonwealth upon one account or other, is ever preſent to his mind: The proſperity of the people is proſperity to him; and the diſpoſition moſt natural for him to feel, is that of a parent towards the family in whoſe welfare his own is involved.

The force with which he is armed, is that of the community, and reminds him of the uſe to which it ſhould be employed. If there be a law of Nature or State on which he founds his prerogative, the ſame law is no leſs ſacred in its application to the privilege or protection of the meaneſt citizen.

Public ſpirit, or the preference of public to partial conſideration, is a duty incumbent on every member of the community alike.

Under every form of a ſociety, the individual does a real ſervice to the public by the reaſonable and proper care of his own preſervation, by attention to the welfare of his family, and by a diligent obſervance of what belongs to his rank, his profeſſion, or condition of life. An immediate view to the public is unequally required under different conſtitutions of government; moſt under democratical governments; and leaſt under abſolute monarchies, where public deliberations are limited to the councils of a Prince. But wherever juſt precautions are taken in the national eſtabliſhment for the ſafety and wellfare of the people, it is happy for every individual to know and enjoy the advantages of his own ſituation, without giving way to that reſtleſs ſpirit, which in the abſence of any real grievance would aim at fanciful refinements of Law or State.

SECTION

SECTION V.

Of the Characteristics of Temperance.

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THIS virtue, in the general defcription of it, implies that difengagement from mean purfuits and gratifications, which gives to the mind full command of its faculties in the preferable occupations of a rational nature. It is the peculiar attribute of a being, in which animal and intellectual powers unite, and is the proper adjuftment and effect of fuch power in the general tenor of a happy life.

Mere animals when compared to man, we have obferved, proceed more by regulated inftincts leading to the fpecific materials which they have occafion to ufe, and terminating in a meafured application or enjoyment of thefe materials. They feldom err in the choice of their objects, and feldom exceed in the meafure of their gratifications; whereas the principle of animal appetite in human nature, though inftinctive alfo, and equally correct in the end for which it is given, is lefs circumfcribed in the ufe of means, or is more fubject to err under the influence of imagination or opinion; thefe when miftaken for reafon, ferve only to miflead the

the animal difpofitions, which they affect to guide: Infomuch, that when the conceptions of mind are falfe, the animal appetites are the more apt to go wrong for being joined with an intellectual principle.

To man therefore, neither the firft conceptions of his mind, nor the inftincts of his animal frame are a fufficient guide to the courfe of life he ought to purfue. Thefe conceptions and inftincts are themfelves a province fubjected to the fuperintending power of intelligence, and requiring to be governed with circumfpection and caution.

This mixt nature of man is beautifully allegorifed by Plato, under the image of a Team, in which animals prone to the earth, or wild beafts of a fpirit, fiery, reftive, and unruly are yoked together with courfers of a celeftial breed: Thefe ftruggle to maintain a better or more elevated courfe, than that into which they are dragged, whether downwards or aftray, by the others with which they are combined in the team.

To whatever length we may purfue this allegory, we muft obferve, that among the animal appetites there is not any one fuperfluous, nor any one which fhould be entirely fuppreffed. The frame of nature is beautifully conftructed, and its movements make an admirable part in the order of things. There is no reafon to reprobate any of its enjoyments merely as fuch.

Mankind indeed, in different ages or nations have varied in their conceptons on this fubject. They would reprefs one fett of animal enjoyments, and authorife another. If in one quarter of the globe, the gratifications of the table are left at difcretion, thofe of the fexes are reftrained. Or if under the fanction of religion, certain meats and the ufe of fermented liquors are prohibited; polygamy

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polygamy, or a kind of ſyſtematic debauch of the ſexes, is admitted as a privilege of the true believer.

Whether men derive their apprehenſion in ſuch matters, as they ſometimes derive their conception in other ſubjects, from the ſuggeſtion of occaſions which we do not perceive, and which we therefore, term caprice; or whether they are led by conſiderations of expedience and utility peculiar to their climate, or manner of life, the conceptions themſelves, when generally entertained, give riſe to maxims of decency which are no doubt to be treated with that reſpect which individuals ever owe to the manners of their reſpective times and countries. And although men of reflection may diſtinguiſh what is arbitrary in the manners of thoſe with whom they live, they are not on this account by any means entitled to neglect the obſervance of them.

The informations of reaſon are not ſufficient to direct the ſteps of ordinary men; nor are the marks which cuſtom has affixed in particular ſituations to give warning of the dangers to which morality is expoſed, altogether ſuperfluous, even to men of ſuperior diſcernment and wiſdom.

It is however proper to obſerve in characteriſing the virtue of temperance, that in the general application of its rules to mankind, it is not limited by the local or temporary apprehenſion of any nation or age: That it is not to be defined by the peculiar reſtraint or indulgence which is adopted in the Eaſt or in the Weſt, but is ſuch a freedom of mind from the dominion of inferior appetites and habits, as enable the perſon poſſeſſed of it to purſue the better occupations of a beneficent and intelligent mind.

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The cardinal virtues, we have obſerved, may be compriſed under the denominations of *ſkill*, *diſpoſition*, *application*, and *force*. *Wiſdom* is the ſkill of the virtuous to obtain the ends of beneficence; *Goodneſs* is the diſpoſition to purſue theſe ends and ſo far as the animal appetites unreſtrained might impede the mind in its better purſuits; *Temperance* may be conſidered as eſſential to the application or diligence required in performing the duties of a virtuous life.

Under habits of ſenſuality, whether in deviſing the means of enjoyment, in urging enjoyment itſelf to ſatiety, or in attempts to reſtore the ſatiated appetite, there is a neceſſary waſte of time. And in the diminution of health, or intellectual faculty impaired by debauch, a diſqualification enſues for any better application of mind: So that man, without a proper guard upon himſelf in this particular, might be entirely diverted from the objects of his rational nature, deprived of his underſtanding, or ſunk into a ſtate of brutality more diſorderly than is any where elſe exhibited in the animal kingdom.

Mere forbearance or aſcetic ſeverity, however, is not ſufficient to prevent or to correct this evil. Abſtinence may be extreme, and no leſs than the oppoſite vice of exceſs, enfeeble the living frame and impair the energy of the rational powers; nor is mere ſobriety, however regulated, ſufficient in this important reſpect to complete the merit of a virtuous character. The miſer is ſober from penury, or that he may ſave his money; the ſhaper is ſober, that he may ſucceed in ſome ſtroke of his art, and overeach or circumvent thoſe who are leſs guarded in their manner of life.

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To have the merit of temperance, it is neceſſary that the ſuppoſed receſs from animal gratifications ſhould be employed in a better way ; in a diligent diſcharge of ordinary duties ; in purſuing a rational courſe of life, and in the exerciſes of intelligence which lead to the attainments of wiſdom and promote the progreſs which human nature is deſtined to make.

Temperance, therefore, may be conſidered as conſiſting of two branches, ſobriety or reſtraint from exceſs, and application or a proper direction of mind. To the firſt are oppoſed *Debauchery* and *Senſuality* ; to the ſecond *Diſſipation* or *Sloth*.

To a perſon appriſed of the higher enjoyments and occupations of a rational nature, it is not difficult to reſtrain the mere animal appetites within reaſonable bounds. Their gratifications are not in their nature calculated to occupy a long or improper portion of time. When their purpoſe is obtained, they ceaſe to importune ; nature gives warning of approaching exceſs in feelings of ſatiety, diſguſt, or of poſitive pain ; and although the glutton, without attending to theſe admonitions, may hurry his meal into ſurfeit or fatal exceſs ; yet, in general, mere appetite is not the ſource from which intemperance is moſt likely to ariſe.

Senſuality is a diſorder of the mind ; it reſults from the imagination, and is a project of obtaining a continual enjoyment where nature has given no more than a capacity of occaſional and temporary pleaſure.

An agreeable ſenſation is fitted by nature to allure the animal to perform the functions which are required for the preſer-

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vation of her work. But attempts to prolong or to accumulate ſuch pleaſures, for the moſt part wear out or impair the very faculty by which they might be enjoyed at their reaſonable periods; or if this effect ſhould not follow, the intervals of mere ſenſual gratification require to be ſupplied by ſome amuſement or paſtime of a different kind, as converſation, exerciſe, or play: So much, that if the voluptuary appears to paſs his time agreeably, his principal enjoyments are of a nature very different from thoſe of any mere ſenſuality, and actually conſiſt in applications or exerciſes that amuſe the mind.

Under this impoſition of fancy, or miſapplication of language, which refers all human as will as animal enjoyment to ſenſe, it is not uncommon to call that a life of animal pleaſure, which is in fact a life of mental occupation or ſocial amuſement; and although the ſpecific enjoyment of human nature on many occaſions conſiſts in its being rationally employed, it is common to conſider the more ſerious engagements of life as an oppreſſion or interruption to pleaſure.

In conſequence of ſuch miſapprehenſions men are doubly miſled, they are turned away from that which conſtitutes the merit and felicity of their nature, to objects which are inadequate to their purpoſe; and which, to fill up the moments of human life agreeably, muſt be pieced out with what they term amuſements, and which are in reality mental engagements, though of a value inferior to thoſe which they reject as a burden.

The diſpoſition of human nature in the mean time is favourable to the attainment of proper habits, if we are ſucceſsful in removing thoſe which are improper. An exemption from ſloth neceſſarily implies activity: We can ſcarcely refrain from one

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ſet of purſuits without betaking ourſelves to ſome other; ſo that mere relief from the habits of ſenſuality, or the longings for animal pleaſure, may of itſelf lead to better applications of mind. Many circumſtances concur to recommend beneficence, and to intereſt men in the welfare of their fellow creatures; and if they be not debauched by habits of a different tendency, they are likely to move in the track of their duty as the moſt natural path in which they ſhould go.

The greateſt danger to which the ingenuous are expoſed in making a choice of their active engagements, is that of neglecting buſineſs for the ſake of mere amuſement or paſtime, in which, without ſinking into ſloth or ſenſuality, they form habits of diſſipation equally fatal to the higher and better engagements of the mind. They loſe the faculty of ſerious exertion, and ſhrink from any thing that has the aſpect of buſineſs, as the ſickly ſtomach loaths the appearance of wholeſome food.

As it is difficult to aſcertain the diſtinction betwixt amuſement and buſineſs, the one by a very natural figure is eaſily ſubſtituted for the other. Thus "*Buſineſs*," ſays Sir William Temple, "*is the diverſion of man*;" and there is no doubt, that perſons who betake themſelves with alacrity to any ſerious occupation, thereby are more effectually amuſed or diverted than thoſe who affect a life altogether compoſed of diſſipation and paſtimes.

The human mind is not amuſed without an object, and the nearer that its object, in the intereſt it creates or the ardour it excites, approaches to what are termed the important affairs of life, the more effectual the amuſement or pleaſure it brings The diſſipated, accordingly, while they fly from buſineſs as an application of

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too ferious a nature, find fome other intereft or paffion to command their attention; and are in fact the more entertained, that their faculties are intenfely employed, and their affections warmly engaged.

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The gamefter hazards his fortune, or the hunter expofes his life; and both, in order to be amufed, require the higheft meafures of exertion, of eagernefs, and agitation of mind. When familiarity with an object has leffened the ardour it brings, they feek for occafions to renew their intereft, and to awaken their paffion: They ftrive to do for themfelves what nature has fufficiently done for the whole of the human race; they create a neceffity of labour, and an occafion for the exertion of their powers. Of this fort, the huntfman may obferve that nature has ftored human life with abundance of game; and the gamefter may obferve, that fhe has proffered to mankind in every fituation, a ftake for which they may play; and if they are pleafed to join the fatisfaction of promoting the welfare of others with that of preferving and accommodating themfelves, they will find little occafion to rack their invention for paftime or concerted amufements; nor will they be led to imagine any thing more pleafant to be done, than that which they are in the prefent moment, and by the proprieties of their ftation called upon to do.

This were the genuine refult of temperance; a well directed activity of mind, exempted from the dreams of the voluptuary, or the diffipation of the idle. It would confift in a proper ufe of what is prepared for the purpofes of animal life, and in the habit of applying to what are the proper engagements or occupations of a rational nature.

In youth, we are for the moſt part unwilling to apply to any thing that does not promiſe immediate gratification or pleaſure: And this diſpoſition, if indulged, leads to a habit of diſſipation for life: It lays the foundation of a frivolous manhood, and a wretched old age, about to depart from the paths of this mortal ſcene without leaving any honourable track behind. It were happy, if in youth we could be perſuaded, that the care of parents and tutors to give proper habits of application, though at firſt diſagreeable, is in the way to future ſatisfaction and pleaſure; or if we could be made ſenſible at this time of life, that we are not more intereſted to acquire knowledge, or receive information, than we are to form habits of diligence, and a juſt direction of the mind to the purſuit of thoſe pleaſures, which are at once honourable, permanent, and juſt.

SECTION

SECTION VI.

Of the Characteristics of Fortitude.

TO the requisites of an active character, which we have been considering, it is necessary to subjoin that of a forcible or resolute mind: Under this title, *Fortitude* is required to fill up the sum of the virtues. PART II. CHAP. V. SECT. VI.

In mere body, there is a force constituted by resistance to change; in animal life, it is courage and muscular strength; in free agents, it is a determinate choice of conduct unaltered by difficulty, suffering, or danger.

It is not required that the resolute mind should be insensible to the warnings which, in the form of pain, nature has given of the ills to which the animal nature is exposed, nor does it require the neglect of such warnings, or of the means that may be employed for safety in consequence of them; but as the duties of human life frequently call upon the virtuous to pass through inconvenien-

cies, and to incur danger or pain in the conduct of ſome worthy purſuit, the quality of a mind poſſeſſed of itſelf, and undiſturbed in the exerciſe of its faculties is required to complete the character of virtue.

In this ſcene of difficulty and danger, the actor cannot proceed with a mind that is deficient in fortitude, any more than the archer can ſhoot with a bow that wants elaſticity or ſtrength.

Among the principal characteriſtics of this virtue may be reckoned *Reſolution*, *Intrepidity*, *Patience*, and *Conſtancy*.

In all theſe inſtances, no doubt, force of mind, like ſtrength of body, may be employed to an *ill*, as well as to a *good* purpoſe; but as mere abſtinence from animal pleaſure, without a proper application of mind to better purſuits does not conſtitute temperance, ſo neither does exemption from fear or impatience conſtitute the virtue of fortitude.

The ignorant are ſometimes fearleſs, becauſe they know not their danger. The criminal is daring, from the force of ſome vicious paſſion; but fortitude is the ſtrength of integrity that is foſtered by a conſcience void of offence, and is as far removed from the audacity or impudence of the profligate, as it is from the baſeneſs of the coward.

Reſolution is the courage with which the virtuous proceeds in his courſe of beneficence towards his friend, his country, or his fellow creature, in any circumſtances that require his aid It was nobly expreſſed by the three Iſraelites, in anſwer to the king of Babylon who threatened to caſt them into the midſt of a burning

ing fiery furnace, if they did not worſhip the golden image which he had ſet up: And who is that God, he ſaid, "that ſhall deliver "you out of my hands?" "We are not careful, they ſaid, Nebuchadnezar *to anſwer thee in this matter*: *If it be* ſo, *the God* "*whom we ſerve* is *able to deliver us from the burning fiery furnace*, "*and he will deliver us out of thine hand, O King; but if not, be it* "*known unto thee, O King, that we will not ſerve thy Gods nor* "*worſhip the golden image which thou haſt ſet up*". Here was a reſolution expreſſed not in the confidence of eſcape or ſafety, but in the ſentiment of a daring integrity which no menace could ſhake. And the benevolent is reſolute when a friend or an innocent ſufferer requires his aid, becauſe affection or commiſeration is more powerful than intereſt or even ſelf-preſervation. And the ſame virtue of fortitude may be known, though with leſs evidence and on ſlighter occaſions, by the voluntary hazard of ſuffering, or inconvenience in the diſcharge of any duty whatever.

Intrepidity is tranquillity and preſence of mind in the midſt of danger. It is oppoſed to that perturbation of *fear* or *terror* by which the weak minded are diſqualified to acquit themſelves properly or to extricate themſelves from the dangers in which they are involved. Without intrepidity, enterpriſe is raſhneſs, and ſerves only to lead the feeble minded into ſituations in which they are not qualified to act.

As the intrepid continue to poſſeſs themſelves or to have the uſe of their faculties in the midſt of danger, intrepidity is not only an exemption from the ſufferings of fear or terror, but is the beſt ſecurity alſo againſt the evils with which any danger is ſuppoſed to threaten. It enables the perſon alarmed to take the beſt

PART II. CHAP. V. SECT. VI.

meaſures for ſafety, or to employ the beſt and moſt vigorous means of reſiſtance.

In proportion as we are ardent in the cauſe of our fellow creatures, we are leſs apt to be diſturbed by conſiderations of inconvenience or danger that affect ourſelves ; ſo much that a generous or tender affection is itſelf in ſome meaſure a principle of fortitude, and prepares the mind for a courageous diſcharge of its duty. The female parent, even in the moſt timorous ſpecies of animals, is obſerved to be bold and fearleſs in defence of her young.

For the poor wren,
The moſt diminutive of birds, will fight
(Her young ones in her neſt,) againſt the owl *.

And it is under a ſenſe of indignation at the commiſſion of iniquity, or in the ardour of enthuſiaſm for the good of their country, that men are obſerved to make the greateſt efforts of intrepidity and courage: In ſo much, that as fortitude is a neceſſary ſupport in every virtuous enterprize, the conſciouſneſs of integrity, and a generous reſolution, is the true incentive to courageous and ardent exertion of mind.

Patience may have a reference to any actual ſuffering from which there is not an immediate proſpect of relief. The patient endures what cannot be helped without exaſperating the ſore with the fruitleſs irritations of a peeviſh and fretful diſpoſition.

In

* Shakeſpeare in Macbeath.

In the order of nature, and in directing the animals to the means of their own preservation, pain is employed perhaps with more power and efficacy even than pleasure. External causes that threaten to wound or to hurt, give warning by the infliction of pain: Diseases that announce the prospect of Death give an alarm in the same manner; and the suffering is made to increase while the danger continues, or is not to be removed but by a removal of the cause that annoys. PART II. CHAP. V. SECT. VI.

According to this general law of nature, no living creature is exempted from pain; but to acknowledge the beneficent purpose for which it is inflicted, and to employ the mind without peevishness or discontent, to obtain that purpose is a principal characteristic of that virtue of fortitude which we are now considering.

Patience in suffering, like intrepidity in danger, is the best alleviation of the evil to which it refers, and that which enables the mind to make the most successful efforts in obtaining relief.

The effect of pain in causing distress is in a great measure proportioned to the apprehension with which it is received. The timorous patient shrinks from the surgeon's knife before it has touched his sore, and has already suffered in imagination before the sense could be affected. The fearless on the contrary are hardy in bearing what they disdain to fear. The mind, it is well known, under any vehement emotion of affection or passion is insensible to wounds or pain, and even the distressed may be diverted from their sufferings by any object that warmly interests the

 mind,

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mind. Patience therefore, we may believe, is greatly aided by an exemption from fear. And this virtue is impaired by melancholy or other peeviſh and fretful paſſions, even more than by any defect of firmneſs or ſtrength in the animal frame.

Sentiment and occupation of mind, ſuſpend the effect of mere ſenſation, while a certain vacancy of thought, and habitual indifference to objects that give any ardour to the mind, leave it entirely to be occupied by the ſlighteſt feelings of bodily ſenſe.

To correct the ſoul therefore of its weakneſſes, whether fear or melancholy; to ſet the order of nature in its proper light; to occupy the mind with this and other objects of a juſt affection, appear to be the proper means to ſtrengthen it in bearing the inconveniences and pains to which human life is expoſed.

Patience, it muſt be confeſſed, in many inſtances appears to be the gift of nature; but in whatever meaſure it be given, it may ſtill be improved by thoſe who are ſenſible of its value, and who do not eaſily forego what they admire and wiſh to poſſeſs. The martyr and the hero are no doubt ſupported in ſeeming paroxyſms of ſuffering, by the ſenſe of honour they have attached to the part they perform.

Conſtancy is that force of mind by which we perſevere in purſuits properly begun, or engagements properly made. It is oppoſed to wavering or unneceſſary fluctuation of choice.

An ill choice ought no doubt to be corrected. But in order to prevent the neceſſity of change, proper caution ought to be employed before we form our engagements. There is a time for deliberation,

deliberation, and then it is proper to give every consideration its due regard. A choice well made is the proper antidote to wavering and inconstancy, which proceed from the want of any fixt conception of the object at which we aim; and which constitutes a weakness of mind subject to disgust or weariness from any difficulty or disappointment for which we are not fully prepared. The inconstant are known to drop even the pursuits in which they are successful in order to exchange them for somewhat else, which they have not tried, and of which the principal recommendation is that of being new. They are of course by too frequent a change of their objects unable to effect any valuable purpose whatever.

To persist in our engagements is often a material article of justice, and a matter of right which the parties concerned are entitled to exact. To persevere without wavering or disgust in pursuits which are properly chosen is necessary to the success of them. For this reason, even if a better choice should appear than that which we have actually made, it is seldom wise to change a pursuit in which we have made any considerable advance, to begin another in which all our labours are again to be renewed.

But this virtue of fortitude, which lays the foundation of all the proprieties we have mentioned, whether, *resolution*, *intrepidity*, *patience*, or *constancy*, has a value in itself, independant of the purpose which it enables the person possessed of it to pursue and obtain. It is, in many instances, an exemption from suffering or an alleviation of pain. It opens the mind to the influence of its best affections, and gives it the possession of itself and its faculties on trying occasions.

Fear

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Fear next to malice is the greateſt bane to the human heart; it is a ſtate of ſuffering, degradation, and weakneſs, or a diſqualification for the practice of any virtue. The coward is too anxious for himſelf to entertain any generous affection for others, and too feeble in his reſolution to give any adequate effect to the purpoſe he forms. He is mean and abject in adverſity, inſolent in proſperity, and cruel in urging the effect of his jealouſy or fears againſt any object of theſe paſſions, which he may have got in his power.

There are no conditions of the mind that appear more evidently in the perſon, than thoſe oppoſite characters of a reſolute and cowardly nature. The one bears the aſpect of elevation, even in the retreats of modeſty, or in the midſt of adverſity; the other is preſumptuous, or abject, merely as the occaſion gives or withholds the advantages of fortune, which he is ever ready to feel and to abuſe. The prepoſſeſſion of mankind, therefore, in favour of courage, and in contempt of cowardice is well founded in nature; the firſt no doubt may be abuſed, and the latter may ſerve on occaſion to render men tractable and ſubmiſſive to the powers by which they are governed; but, as we are not to reject a bleſſing merely to avoid the abuſe of it, neither are to adopt a great evil for the ſake of a trifling convenience.

Courage, it is true, may be abuſed; it is nevertheleſs, though not an abſolute ſecurity againſt ill diſpoſitions and vicious habits, an aptitude for all the nobler affections of the human heart, as well as a force by which the mind is enabled to ſupport itſelf in the purſuit of its worthieſt objects.

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We have obſerved, that a generous affection is in ſome meaſure a principle of courage; the converſe alſo is true; the courageous, in proportion as they are ſecure upon their own account, have minds ſuſceptible of a proper concern for others; and the benevolent become inſenſible of perſonal inconvenience or danger, in proportion as they are engaged in the exerciſe of beneficent affection towards their fellow creatures: Inſomuch, that the characters of generoſity and courage are in their nature allied, and in their exertions mutually ſtrengthen or confirm each other. Magnanimity is the joint reſult of both, it is the effect of goodneſs and probity, raiſed above the conſideration of intereſts, of dangers, or ſufferings, which are apt to embarraſs the conduct of ordinary men. The magnanimous ſteer through impediment or danger, at which the ordinary pilot would lower his ſails; they turn upon an enemy, from whom the ordinary warrior would retreat; they ſpare the vanquiſhed, whom the ordinary victor would ſacrifice to his fears or reſentments; they commend an oponent, to whom an ordinary rival would not allow any merit; and that elevation of mind which they poſſeſs, is, at once, a principal foundation and a ſupport of all the virtues.

The ingenuous, by aſpiring to what is noble, is led to practiſe the virtues which conſtitute the excellence of human nature, and by his reſolution and force of mind ſupports the efforts, and perſiſts in the courſe of life into which he is led by his beſt diſpoſitions.

SECTION VII.

Concluding Obſervations.

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WE have thus, in purſuance of the method propoſed at the outſet of this work, attempted to ſtate the actual diſtinction of man in the ſyſtem of nature; his powers of diſcernment and choice; his purſuits and attainments, the progreſs he is fitted to make, and of which the direction and effect for the preſent is committed to himſelf; but of which the final termination is, we truſt, far removed from his view.

We have inquired, how far any diſtinction of moral good and evil is manifeſt to ſuch powers of perception as ours, and coincides with the diſtinction of enjoyment and ſuffering, of perfection and defect, of which our nature is ſuſceptible; and laſt of all have conſidered in what form the diſtinction of good and evil ſhould operate in the choice and external actions of men; from the whole of theſe facts and obſervations ſtriving to evince, that, as there is in the frame of man a ſtate of *Health*, *Strength*, and *Beau-*

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ty, eligible upon its own account; ſo there is in the form of his intelligent being, and in the purſuits of his active life, a ſcheme of *Wiſdom*, *Goodneſs*, *Temperance*, and *Fortitude*, which, apart from any conſideration of the paſt or the future, is in the preſent, and in every moment of his exiſtence the preferable ſtate of his nature.

But in return for ſuch labours as theſe, we may be told, that we only perpetuate the miſtake which is common to many, who, in amuſing themſelves and others with ſuch inquiries, have formed ſchemes of perfection, to be admired indeed; but far above the reach of mankind. That, as in our general account of perfection we far exceed what human nature is fit to attain, ſo in the detail of our precepts and rules, we would ſubſtitute a concerted manner, for the principles of benevolence and wiſdom, which when preſent ſuperſede the neceſſity of rules, and when wanting, are ill ſupplied by any ritual or external forms of behaviour: That in talking ſo much of virtue, we ſtand aloof from the world in which it ought to be practiſed, and aſſume the importance of wiſdom in mere words and technical forms of expreſſion. It was thus, we may be told that philoſophers in antient times affected a language, a manner, and dreſs peculiar to their reſpective ſects; and hung out the ſuppoſed colours of wiſdom, with little regard to its real poſſeſſion or uſe.

This charge may be true of many, and the error pointed out in it is a juſt object of caution to every one who would avail himſelf of the fruits of a ſcientific education, without incurring its abuſe. The ancient ſects in philoſophy, have been likened to the modern ſects of religion rather than to the varieties of opinion in matters of philoſophy that have been entertained in modern times. Sectaries are ever ready to value themſelves more on their profeſſion of faith, than on their practice; and are

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fonder of any myftery or paradox they have adopted, than of the plaineft and moft important dictates of reafon or good fenfe. We muft not however confound under this cenfure thofe examples of fublime and accomplifhed virtue, which fhone forth amidft the pretenfions and ridiculous formalities with which philofophy in the perfons of many of its profeffors may have been difgraced. It was in the reign of Aurelius, that Lucian gave loofe to his fatire on this fubject, and it was by this philofopher, in return for his ingenuity, that he was protected and employed in the provinces.

It muft indeed be admitted, that to erect philofophy into a profeffion, of which the votary is diftinguifhable from the reft of mankind, otherwife than by a fuperiority which good education may give in any department of life, and by a blamelefs or beneficent intercourfe with other men, is to miftake its nature. In the fchool, and in our attempts to think comprehenfively and juftly, we are led into fyftem; but in reaping the fruits of a culture thus applied to the mind, it may be expected that on every particular occafion we fhould acquit ourfelves properly, without any formal difplay of our general knowledge. It were piteous indeed, to carry nothing with us from hence into the world, but formal pretenfions and technical terms. To this the manners of the world are fortunately repugnant, and perhaps lead to an error in the oppofite extreme, that of affecting indifference to confiderations of virtue, which we inwardly and juftly efteem. To talk of morality in the fafhionable world*, is faid to be quoting the ten commandments. And pretenfions are fo far from being received as merit, that perfons of the moft honourable nature do well to avoid any unneceffary parade of their principles or fyftem of action.

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* Here the author alludes to what was a fafhion in his own times, although it may now perhaps be changed.

A perſon who has learned his exerciſes, may be known by his carriage, without retaining the ſtiffneſs or formality of the ſchool; and his movements, when moſt graceful, appear to be the effects of mere inattention and negligence. Nor need we ſcruple to carry this obſervation by analogy into the moſt ſerious conſiderations of a manly and beneficent life. Virtue itſelf is then moſt perfect, when it does not appear to have been learned or aſſumed as a merit; but is ſuch as the perſon who practiſes it cannot depart from, even in the moſt negligent moments of life: This, however, we muſt not ſuppoſe to be the fruit of actual neglect or indifference to what is right: The maſter artiſt, in every inſtance, derives the accompliſhed freedom of his calling, not from the negligence with which he ſeems to practiſe it, but from an accompliſhed underſtanding of its graces, and a habit of correctneſs carefully acquired in practice: And the manners of an accompliſhed man in beneficence and candour, however little it may be neceſſary to diſplay the ſyſtem he has formed on theſe ſubjects, muſt not be entruſted to chance.

Perfection is no where to be found ſhort of the infinite mind; but progreſſion is the gift of God to all his intelligent creatures, and is within the competence of the loweſt of mankind. There needs not the genius of Hannibal or Scipio to detect the falſe notion of happineſs, of honour, or perſonal diſtinction, which miſlead the fool and the coxcomb. Men of humble capacity may learn to think juſtly on theſe ſubjects: And as far as wiſdom depends on a juſt conception of familiar objects, it is the nature of created mind in the courſe of experience and obſervation to improve its ſagacity, and to make continual approach to the higheſt meaſure of intellectual ability of which it is ſuſceptible. The

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world is far from being ſo unreaſonable, as to expect from every individual the utmoſt perfection of which human nature is ſuſceptible; nor of any individual, in every action of his life, a full diſplay of all the good qualities of which he himſelf is poſſeſſed. But the virtue of goodneſs, whether operating in mere innocence, or in beneficence, is ſurely improveable, if not actually acquired by habit.

It is that which we commonly enough expreſs in the diſtinctive denomination of a gentleman, when employed as a term of praiſe; it implies a certain caution to avoid what is hurtful, or offenſive to others, liberality, and humanity, or attention to oblige, and to anticipate the wiſhes of the modeſt and unaſſuming. The converſation of gentlemen is accordingly a ſcene of ſatisfaction and eaſe, not of ſtrife, and competition for ſuperiority: And this we impute to their breeding, and to the leſſons of a dignified rank, not to any original difference of diſpoſition or temper.

The attainments of men are actually unequal, and the individual differs from himſelf, at different periods of his life.

Whether the inequalities of men, as ſome have alledged, may be traced to mere caſual circumſtances, engaging them in different efforts and purſuits, may be left undetermined. Or without venturing an aſſertion ſo little ſuſceptible of proof, we cannot doubt, that if the ſame perſon differs from himſelf at different times, it is in conſequence of the efforts he makes, or neglects to make, and of the habits of thinking or of acting he has formed. Good offices conciliate the minds of men; and to have lived with the beneficent and the candid, tends to inſpire benevolence and candour.

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It is a vulgar obſervation, that we are inclined to love thoſe on whom we have conferred a benefit, more than thoſe from whom we have received one. And the interpretation of this fact is ſomewhat malicious; to wit, that we are more tenacious of the obligations we have laid upon others, than of thoſe which have been laid on ourſelves. But in whatever way it be underſtood, the fact is important. Every one has it in his power to do a good office, though not always to receive one; and according to this obſervation therefore, has that in his power which is moſt effectual to his own happineſs, or the goodneſs of his own diſpoſitions.

Fortitude and temperance grow upon the mind, in the continued practice of theſe virtues. The veteran becomes calm in the midſt of a hardſhip, or danger, to which he is accuſtomed. And the ſtrenuous mind, in any worthy purſuit, becomes ſuperior to the allurements of pleaſure, or the languors of ſloth.

We have thus, on the ſuppoſition of an improveable nature in man, endeavoured to ſpecify what he has to wiſh for himſelf, for his friend, and for mankind. And the model propoſed for him cannot be improper, if it lead him to ſhun any evil to which he is actually expoſed, or to attain any good which is placed within his reach.

It ſtill remains for a ſubject of ſeparate inquiry, to conſider *what the citizen has to wiſh for his country.* And what is that public good, which in every community ought to be the object of political inſtitution, and which, when obtained, ought to reconcile every individual to his ſtate in ſociety, whether it be his lot to govern, or be governed.

CHAP.

CHAP. VI.

OF POLITICS.

SECTION I.

Introduction.

WE have already conſidered ſociety and government, or national eſtabliſhments, in reſpect to their origin and their progreſs, we are now to conſider them in reſpect to the good and evil of which they are ſuceptible, or the comparative advantage in reſpect to which they are unequal. PART II. CHAP. VI. SECT. I.

PART. II.
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SECT. I.

Under this notion we may treat of *Population*, *Manners*, and *Wealth*, of *Civil* and *Political Liberty*, with all its accompanyments in raiſing the character and genius of a people.

Opinions on the ſubject of public, no leſs than of private good are of much importance to mankind. As error and miſtake, relating to the one, involve the mind in folly, ſuffering, and diſappointment; ſo, in relation to the other, they would involve whole nations in diſorder and riot, or in ſcenes of degradation and oppreſſion.

SECTION

SECTION II.

Of the People considered in Respect to Numbers.

THE goodneſs of God is manifeſt in the form and extent of his works. Of theſe, ſo far as they are known to us, the moſt excellent is man, exhibiting the effects of Divine Goodneſs in the multitude of his ſpecies, and in the laws of nature, which are eſtabliſhed for their preſervation, accommodation and increaſe. PART II. CHAP. VI. SECT. II.

The number in which we ſhould wiſh mankind to exiſt, is limited only by the extent of place for their reſidence, and of proviſion ſufficient for their ſubſiſtence and accommodation; and it is indeed commonly obſerved, or admitted, that the numbers of mankind in every ſituation do multiply up to the means of their ſubſiſtence.

To extend theſe limits is good; to narrow or contract them is evil; but although the increaſe of numbers may be thus conſidered as an object of deſire, and although we may wiſh, in every

inſtance, that the people ſhould multiply, yet it does not follow, that we ought to wiſh the ſpecies thus indefinitely multiplied, to be united alſo into one and the ſame community.

The formation of families, and the continuance of their members together for a certain time, are phyſically neceſſary to the preſervation of the human race; but the union of numberleſs families into one ſociety, is ſo far from being equally neceſſary, that the number of families ſo united may be reduced indefinitely, in a perfect conſiſtence with every advantage of the mere ſocial life.

But nature, in giving to man the higheſt place in the ſcale of active exiſtence has multiplied the occaſions on which he is to exert both his animal and his intelligent powers. Beſides the phyſical wants and neceſſities, which are left for him to ſupply, beſides the advantages which are left to be gained by his induſtry and his application, the very vices and follies incident to one part of the ſpecies, create employment for another, and the diviſions of men mutually furniſh objects of caution, and occaſions of action, from which no part is exempted, and on which every ſeparate ſociety muſt regulate its eſtabliſhments, and eſtimate the value of its numbers.

Mankind are expoſed to diſſention and quarrels, whether from the influence of irregular paſſions or miſtaken apprehenſions of right and wrong. And as the poſſibility of diſcord and war is thus entailed upon human nature, no nation, however inoffenſive in its own purpoſes, or however wiſe in its meaſures, is entitled to think itſelf exempted from the common lot of mankind; or

to ſuppoſe that its rights are ſafe without the precautions that are neceſſary to ſecure them.

In this point of view, we may conſider the increaſe of the human ſpecies not only as an object of general benevolence, but as a matter of expedience alſo in the caſe of every particular ſtate. We may wiſh that our country ſhould be populous; or increaſe in numbers indefinitely, the better to ſuſtain the national conteſts in which they may be engaged.

In every nation, the people may be conſidered in two reſpects.

Firſt, as forming the object for whoſe ſake the ſociety is inſtituted, and for whoſe ſake it ought to be preſerved.

And next, as affording the means by which the ſociety is ſo formed and preſerved.

In the firſt point of view, *Salus populi, ſuprema lex eſto*, is the fundamental principle of political ſcience. If the people be happy, we have no title to enquire to what other purpoſe they ſerve, for this itſelf is the purpoſe of all human eſtabliſhments.

At the ſame time, the people may be conſidered as the ſtrength and ſupport of their community; and although, in the firſt point of view, every intereſt is ſubordinate to theirs, yet in this ſecond point of view, they muſt accommodate themſelves to the intereſts of ſtate; and if there be any paradox in this manner of ſtating the ſubject, it ariſes from our conſidering the end of political eſtabliſhments, and the means of obtaining that end, as ſeparate or diſtinct, whereas they are in this caſe the ſame.

 Eſtabliſhments

PART II
CHAP. VI.
SECT. II.

Eſtabliſhments are meant for the good of the people, and the people alſo ſerve to ſupport their eſtabliſhment. The greateſt meaſure of happineſs beſtowed on the people, is that by which they are the means of making a happy community; and if the members of a community accommodate themſelves to what is beſt for the ſtate, this is no more than to be, and to do, what is moſt for their own preſervation and welfare.

If the citizen on occaſion muſt ſubmit to perſonal hardſhip for the benefit of his country, ſuch in fact is to him the occaſion on which he is to reap the happieſt fruits of his nature, magnanimity, benevolence, and fortitude. It is good for his country to be ſafe, and it is ſtill more ſo for him to be an inſtrument in obtaining that ſafety. If it be the lot of the vine to bear a fruit for its owner, fertility and abundance of cluſters is the proſperity and beauty of the plant that comes ſo loaded to the vintage.

The people conſidered as the vital blood of a nation, if they are fitted by their character to ſupply that part, have a value proportioned to their numbers; or if the numbers be given, we are to eſtimate their value, from the meaſure of life and of ſtrength, which they beſtow on their country.

SECTION

SECTION III.

Of the Manners, or Political Character of the People.

WE are not under this title, to repeat the general deſcriptions of virtue and vice. Theſe we obſerved, may operate in any ſituation, or on any materials: They may operate in public or in private life, in proſperity or adverſity, reſpecting matters of *property* or *eſtimation*, matters of *private* or *public concern.* PART II. CHAP. VI. SECT. III.

To diſtinguiſh the political from the moral character, we muſt recollect, that although a man may be virtuous or vicious in any ſituation, and converſant in any materials, yet there are, in relation to circumſtances and manner of life, certain habits which enable thoſe who are poſſeſſed of them to give to their virtues the proper effect in their particular caſe, or in the treatment of matters, in which they are particularly concerned. A ſcholar or a merchant, may be each in his way a perſon of great ſenſe and integrity; but the one is not therefore qualified for a counting room, nor the other for a place at college. Where habits proper to the political ſtate are ob-

tained, they conftitute the value of a political character ; or where the people are by contrary habits difqualified to maintain the political form of the community, or to purfue the objects of ftate ; their numbers may be great, but they are not of proportional value to the nations they conftitute.

I may be obferved, that mankind in the refult of the political arts to which they are led by the exigencies of fociety, arrive at different eftablifhments, whether fimple or mixt. They are led by their fituation alfo to purfue a variety of objects, in which the pacific or military arts may prevail, and the eftimable character of the people in the political point of view is their fitnefs to reap, to preferve, and to improve the advantages of their own inftitutions; and to fuppprt their country in purfuit of its refpective objects. Under eftablifhments, therefore, in which the people are differently governed, or have formed themfelves into a governing power ; and in nations differently occupied, whether in commerce, or war ; and engaged in the practice of fpecific arts, whether lucrative or liberal, fuitable habits, though various in different inftances, give to the people a political value proportioned to their numbers.

In ftates of a democratical form, and fmall extent, where the people may be deftined to govern and to defend themfelves, the habits of the ftatefman and the warrior are required as ordinary accomplifhments of the citizen ; and the individual is entitled to eftimation, only in proportion as he poffeffes thefe habits. Authority and power are entrufted in the hands of particular perfons, but every citizen equally retains his claim to fuch occafional truft. There is a fpirit of equality therefore, an attention and

zeal for public concerns, which make an eſſential part in the habits of ſuch a people.

If the citizen under a democratical government ſubmit to reſign his pretenſions, he betrays the right of every other perſon in the ſtate, while he ſurrenders his own. If he aim at any aſcendant, or ſuperiority of fortune, different from the effect of ſuperior ability and virtue, his pretenſions become inconſiſtent with public order and ſafety.

In proportion, therefore, as we ſuppoſe individuals in ſuch inſtances not qualified to preſerve their ſtation, not diſpoſed in their turns to obey without meanneſs, and to command without inſolence; the community, inſtead of increaſing its ſtrength by multiplying its numbers, actually tends to its ruin. Want of numbers might expoſe ſuch a ſtate to be overwhelmed by an external power; but the want of a fit character, in public ſpirit, ability, and vigour, prepares the ſtate from within for immediate ſubverſion, as a fabric is prepared to tumble or fall into ruin by the weakneſs or decay of the parts that compoſe it.

The manners of men may vary without inconvenience in republics of a different deſcription. In ariſtocratical or mixed government, for inſtance, certain caſual or hereditary diſtinctions of fortune being admitted, the inferior may yield and the ſuperior aſſume a comparative advantage in perfect conſiſtence with the order eſtabliſhed. Nay, in proportion to the inequalities acknowledged, there is a habit of the perſon fitted to the rank, and in every condition a ſuitable character or manner. The habits of ſtation are neceſſary to qualify the citizen to ſuſtain the part which is aſſigned to himſelf. Elevation and dignity are ſuited to the rank in perſons of

one condition, deference and refpect are fuited to the rank in thofe of another; and without fuitable diftinctions of character different orders of men would be difqualified for their fituations, and a community fo made up of difcordant parts would be unfit to maintain the eftablifhment in which the public order confifts. The utmoft to be expected among citizens in this ftate of difparity is that the fuperior fhould, by his noble qualities, merit the refpect which is paid to him; or earn the returns of affection and gratitude by the good he performs.

Under monarchies, whether abfolute or mixed, the fcale of fubordination may be farther extended; or the extremes of high and low much farther removed from each other than they are in republics of any fort; while the interval between thefe extremes is filled up with many flow and infenfible gradations. Under fuch inftitutions, accordingly, equality may be altogether unknown; the habit of individuals may be in every inftance either to yield or to affume a fuperiority. And thefe habits of fubordination, of precedence, or deference, are neceffary to give the people their value in the different ranks they are deftined to hold.

Under all or any of thefe varieties, a people difqualified to preferve the political form of their country, nobles without beneficence, elevation or dignity, inferiors without refpect or fubmiffion; inftead of giving national ftrength proportioned to their numbers, would prove the immediate fource of weaknefs, or lead to revolutions of uncertain or dangerous iffue.

But while we thus contend for propriety of manners adapted to the conftitution of ftate, it muft be obferved, that, if there

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be any political eſtabliſhment raiſed upon a plan of injurious uſurpation on the part of thoſe who govern, and proceeding upon a debaſed and abject ſpirit of ſubmiſſion on the part of thoſe who are governed, it were abſurd to aſcribe any merit, under the notion of a political value, to the habits which might be required to preſerve ſuch a ſyſtem. The form itſelf we muſt conſider as an abuſe or a calamity, and for the ſake of mankind muſt contend, that manners ſuited to preſerve it are evil. That manners, on the contrary, which diſpoſe the people to revolt, and overthrow ſuch governments at the expence of any temporary hardſhips, are neceſſary to obtain or reſtore the bleſſings of national peace diſturbed by the continual, though unreſiſted wrongs to which the ſubject is expoſed.

This deſcription is perhaps too nearly verified, where the relation of ſovereign and ſubject is conceived on the models of maſter and ſlave, where the one is conceived to be a property and holds his poſſeſſions and his life, not upon conditions that may be ſuppoſed merely unequal; but without the obſervance of any condition at all, and at the will of the other, by whom the diſcretion is frequently abuſed. The value of the people, in ſuch inſtances, is to be eſtimated from their qualifications to repel ſuch pretenſions, and from the energy with which they recur to a form more conſiſtent with juſtice and the good of mankind.

Amidſt the varieties of political character, nations differ alſo in reſpect to the objects on which they are chiefly intent: One nation is intent upon commerce, or buſied with the arts of ſubſiſtence and accommodation: another has its exiſtence to contend for at the edge of the ſword, is therefore intent upon the arts of war, and the advantages to be gained or loſt in the conteſt with its neigh-

bours. In either caſe, the fitneſs of men to promote the proſperity, or to watch over the ſafety of their country, is an eſſential circumſtance in eſtimating the political value of their numbers.

Commercial natious have not any intereſt in the increaſe of population, except in ſo far the people are induſtrious, or poſſeſſed of ſome profitable art. The idle, the profligate and the prodigal become, in proportion to their numbers, a ſource of public diſtreſs and calamity.

Warlike hordes, on the contrary, would multiply warriors, not traders or pacific inhabitants. The Romans, in the firſt ſtate of their principality or republic, haſtened their population by the indiſcriminate admiſſion of ſtrangers to a participation of all their political rights. They had no occaſion to make any ſelection of thoſe, they were to admit on the rolls of their people; for all the hordes in their neighbourhood from which their numbers could be ſupplied were warriors like themſelves, and every acceſſion to their number from the nations around them, was an addition to their military liſts.

While ſtates are thus intent upon any particular object, they appear to eſtimate the character of their people upon a partial model; and ſo far, no doubt, it is partial as they limit their notions of virtue to the tranſactions in which they themſelves are engaged, or to the forms according to which they themſelves are accuſtomed to proceed: But to ſuch partialities we muſt ſubmit in eſtimating the comparative merit of nations, and in judging of the luſtre which individuals may have caſt around them in their reſpective

tive ages. Human nature no where exists in the abstract, and human virtue is attached, in every particular instance, to the use of particular materials, or to the application of given materials to particular ends.

PART II. CHAP. VI. SECT. III.

SECTION

SECTION IV.

Of the Wealth of the People.

PART II. CHAP. VI. SECT. IV.

WE may conſider national wealth in reſpect to the purpoſe it ſerves, while in the poſſeſſion of the people; or in reſpect to that which it ſerves, in the form of a revenue to the ſtate employed to defray public and national expences of government, defence, or chargeable inſtitutions of any ſort.

Wealth, as it may be referred to the firſt of theſe purpoſes, and is in the poſſeſſion of the people, is the ſubject of this ſection; as it may be referred to the ſecond purpoſe of revenue to to the ſtate, will be the ſubject of that which follows.

The firſt and moſt eſſential purpoſe of wealth is the ſubſiſtence and accommodation of uſeful men; and its value is to be eſtimated from the numbers it will ſerve to ſubſiſt and accommodate;—furniſhing, at the ſame time, the means of lucrative enterpriſe for the accumulation of more wealth, or the reproduction

duction of that which is neceſſarily conſumed. Theſe are purpoſes which it ſerves beſt, not in the coffers of the ſtate, or at the diſpoſal of thoſe who are ſuppoſed to act for the community, but in the management of the frugal and induſtrious proprietor; or laid out on the principle of private intereſt, and with a view to private gain. PART II. CHAP. VI. SECT. IV.

In reſpect to national wealth, ſtates may rate their proſperity, not ſo much by the ſums they are enabled to levy in the form of revenue, as by that wealth which, in conſiſtence with public ſervice, they are enabled to leave in the hands of the induſtrious citizen. In his hands it is employed to its beſt uſes, the rearing of a family, the eſtabliſhment of manufacture, the purchaſe of materials and other articles, in the outlay of a lucrative and proſperous trade.

The conſtituents of wealth are more or leſs quickly conſumed in the uſe. The fulleſt granary and the ampleſt ſtore of commodities are, within a limited period, exhauſted in the conſumption of a people; and their wealth is to be eſtimated, not from the ſtate of their magazines or ſtores at any particular time, but from the ſources of reproduction and continual ſupply, by which the abundance they enjoy is increaſed or perpetuated.

The ſource of ſupply which nature has provided for man, in any given ſituation of climate or ſoil, is labour. Without this, in reſpect to him, the land is every where barren, and materials of every ſort are too rude for his uſe. The wealth of the citizen is meaſurable by the quantity of labour he can employ. If he can command the labour of others, he may diſpenſe with his own; but, to enable one perſon to obtain the labour of another, it

is

neceſſary that the one ſhould be able to pay the hire of that labour; and that the other ſhould be in need to receive that hire.

If all men were equally rich, every one might be willing to pay the hire of labour, while no one would be willing to labour for hire: But, as labour is neceſſary to ſupply the conſumptions of life; on the ſuppoſition of equal riches, every one would be reduced to labour for himſelf; and thus a ſuppoſed equality would reduce the fortune of every perſon to the fruit merely of his own labour, and, in fact, would be to render every perſon alike and equally poor.

The antient republics, amongſt whom it was propoſed, in ſome inſtances, to equalize the fortune of citizens, had recourſe to the labour of ſlaves, and the object, without this proviſion, would have been altogether chimerical and wild.

Nature ſeems to have ordered, that, in proportion as men ſhall depart from their original poverty, they ſhall depart alſo from that original ſtate of equality, in which it was neceſſary for every individual to labour for himſelf.

The unequal capacities and various diſpoſitions of men; covetouſneſs and frugality, in one; neglect and diſſipation, in others; unequal ability, application, and ſucceſs in the practice of the lucrative arts, have ever, in the progreſs of wealth, been accompanied with a diſtinction in the fortunes of men; ſo that, while ſome are in a condition to command the labour of many, others remain without any other poſſeſſion than the immediate fruits of their own.

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From a difference of fortune there reſults a difference of eſtimation and rank; and to thoſe who would emerge from the lower ſtation, there is a motive of ambition joined to that of neceſſity, in promoting the practice of arts: So that nations who are forward in the accumulation of wealth, proceed in it with a double ardour from the effect of advances they have already made; and thus owe, in a great meaſure, to the inequalities of fortune, what ſprang originally from neceſſity, the application of that labour by which articles of conſumption are reproduced, and the ſources of wealth are enlarged.

In this ſtate of unequal fortune, one man has the means of projecting and executing a lucrative enterpriſe; numbers of others feel the neceſſity of committing their labour to his direction; and what he gains, even while it remains in his own poſſeſſion, goes into the maſs of national wealth.

Skill, experience, and a ſleight in the application of labour, contribute greatly to the ſucceſs of it, or to the accumulation of its fruits. To promote theſe advantages, the diviſion and the ſubdiviſion of taſks are highly conducive: A perſon who has to work but in one ſingle material, will ſoon come to underſtand his department better, than if he had to do with a number of different ſubjects that would tend to diſtract his attention, and embarraſs his thoughts. Whoever operates but to one ſingle effect, and obtains that effect by repeating without variation one ſingle movement of the hand or the foot, will become maſter of his taſk in a ſhorter time, and will practiſe it with leſs interruption, than if he had to paſs through a variety of operations; were obliged frequently to change his tools; and at every ſucceſſive part of his work were required to practiſe a different ſpecies of ſkill.

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PART. II. CHAP. VI. SEC. IV.

Among the circumftances, therefore, which were formerly mentioned, as attending the progrefs of commercial arts, none is of more confequence to their advancement, than the feparation of callings, and the fubdivifion of each into a convenient number of different branches. This leffens the difficulty of every apprenticefhip, and greatly increafes the produce of any given number of hands. A fit affortment of perfons, of whom each performs but a part in the manufacture of a *pin*, may produce much more in a given time, than perhaps double the number, of which each was to produce the whole, or to perform every part in the conftruction of that diminutive article. But to this feparation of tafks, as well as to circumftances in the original lot of man, it was obferved, that *commerce*, or the exchange of commodities, was neceffary. A perfon who performs but one fpecies of labour, and obtains what is not the whole or perhaps is not any part of his own confumption, muft have a facility in exchanging what he has produced for the other commodities which his occafions require, but which he is not equally in a condition to fabricate for himfelf.

With the benefit of commerce, or a ready exchange of commodities, every individual is enabled to avail himfelf, to the utmoft, of the peculiar advantage of his place; to work on the peculiar materials with which nature has furnifhed him; to humour his genius or difpofition, and betake himfelf to the tafk in which he is peculiarly qualified to fucceed. The inhabitant of the mountain may betake himfelf to the culture of his woods, and the manufacture of his timber; the owner of pafture lands may betake himfelf to the care of his herds; the owner of the clay-pit to the manufacture of his pottery; and the hufbandman to the

the culture of his fields, or the rearing of his cattle: And any one commodity, however it may form but a ſmall part in the whole accommodations of human life, may, under the facility of commerce, find a market in which it may be exchanged for what will procure any other part, or the whole: So that the owner of the clay pit, or the induſtrious potter, without producing any one article immediately fit to ſupply his own neceſſities, may obtain the poſſeſſion of all that he wants. And commerce, in which it appears that commodities are merely exchanged, and nothing produced, is nevertheleſs in its effects very productive; becauſe it miniſters a facility and an encouragement to every artiſt, in multiplying the productions of his own art; thus adding greatly to the maſs of wealth in the world, in being the occaſion that much is produced.

In trade, the profit of one is not, as ſometimes ſuppoſed, neceſſary loſs to another; or rather, commerce being the exchange of what may be ſpared for what is wanted, and this a mutual convenience to all the parties concerned, is equally gain and profit to all.

The principle of trade is private intereſt, the fartheſt poſſible removed from public ſpirit, or any concern for a common cauſe; yet, ſo far as wealth, in the poſſeſſion of the people is a benefit to the ſtate, private intereſt in trade operates with the leaſt erring direction for the public benefit, and is ſecure of its purpoſe, where public councils would miſtake or miſs of their aim.

The trader, no doubt, may err in the purſuit of his gain; but the principle from which he acts is ſo exquiſitely ſenſible to the experience of profit or loſs, that the leſſons of that experience

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ſeldom need to be repeated: The firſt loſs is ſufficient to correct the error of the trader, and he runs with irreſiſtible avidity wherever it appears that profit is to be made. The ſtate may do much to protect, or even to aid him, but not in the way of exciting his ardour, or in directing its application.

It is a primary object of government, on this and many other accounts, to ſecure the property of its ſubjects, to protect the induſtrious in reaping the fruits of his labour, in recovering the debts which are juſtly due to him, and in providing for the fair deciſion of queſtions that may ariſe in the intercourſe of trade.

For the encouragement of commerce, in particular, it is wiſe to facilitate communications by commodious high ways, inland and ſea navigations, and every other conveniency that tends to leſſen the difficulty of removing commodities from the place in which they are produced to that in which they are wanted. This is the principal aid which commerce requires. Miniſters of ſtate have had their predilections; ſome for manufacture, others for agriculture; ſome for foreign, others for domeſtic trade, and it is not uncommon to imagine, that either is profitable only in proportion as the commodity of the merchant brings money, or ſilver and gold in return.

In ſpeculation we wiſh to ſimplify our objects, and would propoſe to ſet the whole machine of human life in motion, by touching ſome key, or by pulling a particular ſtring. Some would encourage manufactures, in order to furniſh the huſbandman with a ready market for the produce of his farm; and take this way to encourage the culture of land. Others are inclined to adopt

the converſe of this expedient; or increaſe the produce of land, in order to feed the manufacturers at a cheaper rate: At the ſame time, it is evident, that, if the ſtate can procure any ſpecial aid or inſtruction to either, that this aid ought to be directly applied where it is ſuppoſed to be of uſe, and not left to wait the recoil of encouragement or inſtruction from a different quarter.

Errors of adminiſtration are ſtill more pernicious, as a late ingenious author has fully demonſtrated *, where, apart from any conſideration of public ſafety, they tend to check one article of trade in favour of another, or act upon a principle of predilection for exportation or importation, in preference of one to the other.

With reſpect to the comparative importance of the home and foreign trade, it is evident, that a perſon having a redundancy of any commodity, and not able to find what he wants in exchange for it, in the dwelling of his neareſt neighbour, muſt go farther, and even if neceſſary to the territory of a ſeparate ſovereign.

A market that is not to be found in the neighbouring village may be found in ſome city or diſtrict at a diſtance; and a commodity which can neither be produced nor vended in one latitude, may be produced or find its market in a different one. If in the ſearch of this market, the trader is led to the dominions of a ſovereign different from his own, he is ſaid to go into foreign trade. If all the parties live in the territories of the ſame ſovereign, the commerce between them, however remote from each other, is ſtill domeſtic or internal. But this circumſtance, it ſhould ſeem, does not affect the preference to be given to one branch of trade

* Smith on the Wealth of Nations.

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trade over another, farther than as a preference is due to the nearest and readieſt market, as being attended with the leaſt expence of labour or carriage, and the leaſt delay of returns.

It is evident that, where a redundant commodity cannot be diſpoſed of at home, the producer is intereſted to have it carried abroad, or preſented wherever he can find a market; that, where the commodity he wants cannot be obtained at home, he is intereſted to have it from abroad, or from whatever quarter it can be procured. But the neceſſity of foreign commerce, in either way, may diminiſh as the territory of the ſtate extends; ſo that ſmall ſtates may be in continual need of commerce with foreigners, while great empires, like the globe of the earth itſelf, have a ſufficient range for every ſpecies of trade within themſelves.

Where ſilver and gold, or money, is more wanted than other commodities, commerce will naturally take its direction to the quarter in which theſe are to be had in return; but, where other commodities are more wanted than gold or ſilver, theſe will be ſent for a ſupply of the more preſſing neceſſity; and there would be no profit in retaining them if other commodities are more uſeful than they are.

One article of policy connected with commerce, and in which the authority of ſtate is ſuppoſed to be neceſſary, is the eſſay and coinage of money, to ſerve as a ſtandard of valuation and medium of exchange. Commerce may originate in what is termed *barter*, in which the parties mutually give and take the articles which they have to ſpare, in exchange for thoſe they want. The huſbandman may have given his meaſure of corn in exchange for the yard of the manufacturer's cloth, without any ſtandard

of

of valuation befides what is affixed by the want or exigency of the feveral parties. Even where the parties in trade recur to a particular commodity as a common ftandard of valuation in their various tranfactions, they may themfelves eftimate the quantity and quality of the ftandard, as well as that of the commodities they are to appreciate by a reference to its value; but many inconveniences are avoided by felecting the precious metals as the ftandard of valuation, and ftill farther inconvenience is avoided by the juft interpofition of government to afcertain, by a mark of public authority, the finenefs and quantity of the fpecies which is to pafs in circulation. This is the object of coinage, and a principal article in the policy of nations, relating to commerce or the operations of trade.

It is well known that even the precious metals, however fitted to reprefent a great value in fmall bulk, neverthelefs may become too unwieldy for quick circulation, and for repeated transfers of property, when the tranfactions of commerce come to be widely extended, and great remittance of money required in payments. That, in this cafe, where public or private credit is fufficiently eftablifhed, promiffory notes, or obligations to pay, may pafs through many tranfactions, and for a time fuperfede the neceffity of actual payment, while the money lies ready to anfwer the demand, at the place from which the promiffory note was iffued.

In this matter, it is a facred object of policy to keep faith with the creditor; and, where the credit of ftate is interpofed, and to give ready protection to the citizen where any abufe in the circulation of paper or promiffory notes can be dreaded.

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Here then, or in reſpect to the accumulation of wealth, we may venture to reſt the eſtimate of national felicity: Firſt, on the labour of the people, or the degree in which that labour is productive; next, on the ſpecies of commodity produced, and its fitneſs to ſubſiſt and accommodate the greateſt number of valuable citizens and uſeful hands; and, laſt of all, on the freedom of trade, and the equal protection given to the people in every branch of commerce unreſtrained and unforced, with this ſingle exception, that where in the courſe of trade advantages may ariſe, or inconveniences be incurred, reſpecting the ſafety or defence of the commonwealth, in every ſuch caſe, ſafety is to be preferred to profit; and the public defence being a primary object of public attention, and an object for which ſtates muſt be prepared to incur indefinite expence, it is an object for which alſo they muſt be willing on occaſion to forgo their profits, and to embrace the leſs profitable branch of trade in which men are formed for the public ſervice, in preference to the more profitable branch in which this advantage is not to be obtained. Hence the wiſdom of encouraging ſeamanſhip in maritime nations, and the wiſdom of guarding, in every ſtate, the manners of a brave and ingenuous people, in preference to their numbers or wealth.

SECTION

SECTION V.

Of the Revenue of the State.

THE wealth of the people, according to the obſervations of laſt ſection, like other articles in the ſyſtem of nature, is a fluctuating quantity, continually periſhing, and continually reproduced. Its ſources are the labour employed in agriculture and manufacture. Its iſſues are the conſumption made by the people, and the expences incurred by the ſtate. Its increaſe or diminution depends on the proportion which the ſupply bears to the waſte or conſumption.

The firſt and principal uſe of wealth is the ſubſiſtence and accommodation of the people: But there is another, if not included in this, at leaſt neceſſary to obtain its end; the ſupport of government in the diſcharge of its neceſſary functions, as in diſpenſing the law, in preſerving the peace at home, in guarding againſt danger from abroad, or in any other object of adminiſtration calculated for the general benefit of the community.

In

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In what manner a public revenue is to be conſtituted for theſe purpoſes is matter of very important concern. It is underſtood to come into the management of thoſe who are intruſted with government, and is that on which the ſpirit of liberty has moſt cauſe to be jealous; in which the ſuppoſed intereſts of the governing and the governed are ſooneſt at variance; and in which the tyrant has moſt immediate occaſion to abuſe his power.

In rude and barbarous hordes, numbers of men appear to be united merely as making up the train of a leader. Whatever be their purſuits or reſources, the leader is ſuppoſed to preſide in the one, and to enjoy a principal ſhare of the other.

In the firſt wars of the Romans, every citizen kept the field at his own expence, or ſerved the public from the ſame ſtock with which he ſupported himſelf and his family. If the leader, in conducting the public ſervice, incurred a greater expence than any of his followers, he was enabled to diſcharge that expence by means of the ſame advantages which procured him the aſcendant he enjoyed. And in his caſe, to employ the ſpoils of one enemy, in waging war with another, was at once to have a public revenue, and to be entruſted with its application.

In the firſt diſtribution of property, individuals are likely to ſhare in proportion to their power. The leader or ſovereign of the community, together with his power, has a claim to what may enable him to ſupport his rank, and to diſcharge its functions; and the demeſne appropriated to him is underſtood, at the ſame time, to be his private eſtate, and the revenue of the commonwealth.

Some

Some republics, as well as principalities, have had part of their public revenue conſtituted in ſubjects reſerved for the community, or ſet apart from the property of any individual, for this purpoſe. Such were the mines which were wrought for the ſtate of Athens; the paſture lands of Campania, and other ſubjects which were let for the republic of Rome.

The kings in Europe have their foreſts or demeſne lands, which are ſo many remains of the funds from which the ſtate of a feudal ſovereign was maintained, as that of his vaſſals was ſupported from their reſpective fiefs.

In the progreſs of nations, however, the demeſne of the ſovereign has been found ſtill leſs and leſs adequate to the public expence. While other ſubjects of property in private hands are improved or rendered productive; the royal foreſt in their neighbourhood continues to be waſte; and government, taught to rely on other and more copious reſources, has long conſidered the demeſne of the ſovereign as a mere article of ſtate and pleaſure to the prince, or as the means of liberality towards thoſe in his favour.

As private intereſt is the great principle of lucrative arts or accumulation of wealth, it is material to the proſperity of nations, in this article, that every ſubject ſuſceptible of improvement ſhould be appropriated or paſs into private hands, who may turn it to the higheſt account: Inſomuch that the idea of a public demeſne, as men advance in ſkill and induſtry, is juſtly exploded, or exchanged for a contribution, or taxes to be levied from the labour or eſtates of the people.

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It is juſt, and in every community matter of tacit, if not of expreſs agreement, that every one who partakes in the benefit of a public eſtabliſhment ſhould bear a part in the expence it incurs. On this principle is founded the obligation of the ſubject to contribute his ſhare to the revenue of the ſtate; and, on this principle, a revenue wiſely conſtituted may, in the progreſs of national wealth, without any public oppreſſion, be made to keep pace with the growing exigencies, the growing numbers, riches, and frugality of the people.

Taxes, for this purpoſe, may be laid in different ways, and follow the rates of property in different ſubjects and effects.

They may be laid in the form of aſſeſſment on the rents of land, or other ſources of private returns: They may be laid on goods as they paſs in commerce; or they may be laid on articles of conſumption in the actual uſe.

In judging of the abſolute or comparative expedience of taxes diverſified in any of theſe ways, the following maxims may be aſſumed.

Firſt, That the real exigencies of the ſtate are to be provided for at any hazard or expence to the ſubject. The intereſts of the ſtate and of the people, when well underſtood, are the ſame. The firſt intereſt of the people is that every one ſhould be protected; and the firſt intereſt of the ſtate is, that it ſhould be in condition to afford protection. Whatever may have been in fact the origin of government, upon this principle alone, the ſolicitude with

which

which it is adminiſtered, and the reſpect that is paid to it by the people are founded.

Secondly, it may be aſſumed, That the private eſtate of the ſubject is in no caſe to be unneceſſarily taxed, under pretence of a public concern. The eſtabliſhments of a great people may contain a variety of departments, and lead to applications of revenue uſeful and proper, in a variety of different ways; but beyond theſe limits, it is evident, that, to tax the people were to rob them of their property, to take from induſtrious hands what may go into the hands of the prodigal; or, inſtead of a ſource of farther wealth to the community, prove an occaſion of abuſe or a waſte, for which the commonwealth is to receive no compenſation or ſupply.

In the third place, it may be aſſumed, That, as it is a principal object of government to ſecure the property of the ſubject againſt every invader, care ſhould be taken, in the form of taxation, to fix the limits of public exaction, ſo as no way to impair the ſecurity of the ſubject, in the poſſeſſion of what he has left; that, while he is required to contribute a part of his labour to the public expence, the extent of this demand ſhould be well aſcertained, and no admiſſion be given to arbitrary impoſitions, which might render the fortune of the ſubject in any degree precarious. It is in the confidence of a ſecurity of property that the labourer toils to obtain it, and chearfully contributes a part of his gains to enſure the remainder.

It is difficult to obtain ſecurity on this point wherever the ſovereign, conceiving his own intereſt as diſtinct from that of the

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people, is at the fame time empowered to impofe taxes by his own prerogative, and without their confent.

A prerogative of this extent, wherever it be lodged, whether in the hands of a monarch, a fenate, or democratical affembly, except fo far as bodies of the two laft defcriptions are fuppofed to to tax themfelves, is not confiftent with the liberty of thofe over whom it is exercifed. In a monarch, it leads to the defpotifm of one; in a fenate, to the defpotifm of a few; and, even in a democratical affembly, when exercifed over fubject-provinces, is the defpotifm of many; and, for this very reafon, is the more oppreffive and the lefs reftrained, than it is in either of the two former inftances. Thus the Athenians oppreffed their allies, or fmaller ftates in dependance upon them, under pretence of exacting the quota of each in fupport of the common caufe; and the Romans, while they exempted themfelves from taxes, fuffered their provinces to be oppreffed with every mode of vexation.

In the fourth place, it is evident, that no tax fhould be laid on in fuch a manner as to drain the fource from which it is derived. The labourer ought not to be interrupted or difabled in the performance of his labour. The trader ought not to be robbed of his ftock; nor the landholder difpoffeffed of his land. Each may be required to contribute a part of his returns; but this fhould be done in perfect confiftence with the fafety of that fubject from which his returns are derived.

In the fifth place, it may be affumed, That not only every real grievance, but every apparent one alfo, and whatever is likely to be felt as fuch in the impofition of taxes, is to be avoided.

The

The public and its members ought to be confidered as parties in the fame common caufe, and fharers in the fame common adventure. It is the intereft of the ftate, that it fhould be chearfully ferved and fupported; that nothing fhould take place in the exactions of revenue or of public fervice which has a tendency to alienate the minds of the people; that, in the choice of taxes, thofe ought to be preferred which are leaft likely to be felt as a grievance. For this reafon, probably, the moft profperous ftates have indefinitely varied the forms of taxation, fo that by raifing fome part, though not the whole, from any particular quarter, they have avoided laying a burden to be felt as a grievance, upon any particular clafs or order of the people.

Cuftoms fall ultimately upon the confumer of the goods for which they are paid. Perhaps all taxes fall ultimately upon thofe who may themfelves be made to pay, but who have not the means of recovering any part of what they have paid, by impofing any terms for that purpofe upon others. Whoever lives on his rent, and buys every article of confumption, without having ought to fell, comes under this defcription. It is contended, therefore, in fpeculations on public oeconomy, that taxes of every kind, however immediately conftituted, fall ultimately on the produce of land. This is probably a miftake; for every other perfon that lives on a taxable income, and by the confumption of taxable goods, without having any to fell, muft bear a proportional part of the burden, as well as the perfon whofe rent is from land. But, even if the reverfe were admitted, it would be far from expedient to apply to the landholder directly for the fupply of a whole revenue to the ftate. Were this meafure to be taken, the whole burden would apparently, as well as really, lie upon one clafs of

PART II. CHAP. VI. SECT. V. the people; and even if the load ſhould continue to be ſupported by this claſs, it would nevertheleſs, from its immediate preſſure and apparent partiality, be conſidered as an inſufferable grievance, and become a continued ſource of complaint.

It is material, therefore, in conformity to the maxim now ſtated, that taxes, wherever they may ultimately fall, ſhould be diverſified in reſpect to the ſubjects taxed, and the tax gatherer have immediate recourſe for payment to all orders of the people, that the whole may, at leaſt in appearance, if not in reality, bear a proportional ſhare of the burden.

In this manner, and through a ſucceſſion of ages, a revenue of the greateſt extent may be raiſed gradually and almoſt inſenſibly, ſo as ſcarcely to occaſion any complaint of a grievance but from thoſe who induſtriouſly ſpeculate on the whole amount, and indulge apprehenſions of what may be the ultimate reſult of its progreſs.

The policy to which this maxim refers has been adopted by ſovereigns of almoſt every deſcription, whether they meant to charge their people with heavy burdens in the moſt artful manner, or to provide for the real exigencies of ſtate in the manner that would be leaſt felt as a grievance. This conſideration, while it may influence the choice of a tax, ought to influence alſo a choice of the manner in which taxes are to be levied, or made effectual, with the leaſt cauſe of complaint on the part of the ſubject.

Taxes, we ſuppoſe, may be levied, either by officers in the pay of the public, or by perſons who farm the revenue at a determinate

nate rate. In general it has been obſerved, that taxes let to farm are more oppreſſive than thoſe which are levied by public commiſſion or revenue officers.

It is not difficult to perceive whence it ſhould ariſe, that a revenue let to farm is more oppreſſive than one that is collected by officers in behalf of the public. A farm of revenue is commonly let to the higheſt bidder. The ſovereign ſtipulates for a certain ſum to be paid into the public coffers, without any riſk from the negligence or failure of thoſe who are employed in the collection, or from the inſolvence of thoſe from whom it is due. The farmer rents the ſubject but for a limited period; and acts in that period under the impulſe of a temporary intereſt, and at the hazard of exhauſting the ſource of future revenue, while he reaps the preſent. He naturally proceeds with the illiberal ſeverities of a private concern, having in his view to obtain ſome adequate return for his riſk and trouble, as well as to make up the ſum he is bound to pay to the ſtate. His concern in the matter is temporary, and he labours to make immediate gain for himſelf, however it may affect the permanent intereſts of the public. He calls upon the ſovereign to ſupport his exactions, under pain of ſuffering him to fail in performing his engagements; and, under this pretence, the public authority is of courſe employed to enforce the vexations of private rapacity.

Where, on the contrary, officers are employed with fixt ſalaries, to collect the duties which are required by the public, theſe officers being reſtrained from exacting more than the public has impoſed, and though called to a ſtrict account of what they have received, anſwerable only for the diligent and faithful diſcharge of their

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their own duty, they are not interefted to urge the public exactions to any cruel or oppreffive extent.

Taxes are of different denominations, taken either from the fubject on which they are impofed, or from the manner in which they are levied. They may be reduced to five titles, *capitation*, *affeffment*, *monopoly*, *cuftoms*, and *excife*. The two firft are exacted from the perfon or the eftate of the fubject; the other three are exacted from commodities in fale or confumption.

Capitation is a tax on the perfon, and when not modified by any diftinction of poor or rich, is fuppofed to fall equally on both. This may be the firft rude device of an arbitrary mafter, who, not being willing to embarrafs himfelf with diftinctions, would arrive at the end of his government in the fhorteft way *. It were abfurd to exact no more from the rich than the poor can pay. And it would be cruel to extort from the poor as much as the rich may without inconvenience afford. Capitation were in either way unjuft and impolitic, either unproductive or cruel. It has indeed feldom or ever been exemplified in this extreme. The moft arbitrary and inconfiderate mafter is aware of its defects, and aims at fome diftinction, by which he would make the wealthy contribute in fome proportion to their means. In a plan of capitation, for inftance, projected for a neighbouring kingdom, it was

* The Turkifh governor in the ifland of Cyprus levies a poll tax from every inhabitant, without diftinction of perfons; and, by way of additional revenue, fometimes repeats the exaction from perfons of a particular name, whether *George*, *James*, or *Thomas*. And, we may believe, when fuch is his humour, may add a name or two more. The labour of thinking feems to be the principal diftrefs from which thefe officers fhrink.

Mariti's Travels into Cyprus and Syria.

was propofed to range the people into fix claffes, and to fix a proportional rate for each. Such an arrangement, however, would ferve only to diminifh the evil, not to remove it entirely. Within each of the claffes confiderable varieties of fortune muft have been admitted, and great injuftice would ftill take place in the exaction of equal rates from perfons of unequal wealth, though of the fame clafs.

Were we to fuppofe a capitation or poll-tax to be freed of all its defects, by a perfect adjuftment of the exaction to the means of thofe on whom it is laid, this in fact would be to change it into that form of taxation which we would exprefs under the name of affeffment.

Under this title we may include every fpecies of tax, in which a due proportion to the means or eftate of the fubject is aimed at. Such, in particular, is the nature of the land tax in Great Britain.

The rent of land is of all others the moft palpable fubject of affeffment; but this form of taxation may with great juftice be made to comprehend the rent of houfes or tenements of any fort, which yield an ordinary return to the owner.

Property in money or ftock is lefs eafily afcertained. The very attempt, in the cafe of a merchant, might be attended with much inconvenience, or improperly difclofe the fecrets of trade. His ftock is fluctuating. It is rifked upon uncertain events; and, at particular times, it may be doubtful whether his fortune is not greatly reduced, or whether he is not upon the eve of recovering his rifk with great profit. Free and trading nations, therefore, may wifely forego the application even of affeffment,

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aſſeſſments, where the indiſcriminate extenſion of ſuch a tax might check the efforts of trade, on which the increaſe or preſervation of national wealth ſo much depends.

Monopoly is the excluſive privilege of buying or ſelling a commodity, from which it is propoſed to levy a tax.

Whoever has the ſole privilege of buying may buy at his own price, and will give no more than what enables the ſeller to bring his goods to market. If he alſo have have the ſole privilege of vending, he will exact as much as the conſumer can be made to pay, without diſcouraging him entirely from the uſe of the commodity. With theſe advantages, the dealer may make indefinite profit in the reſult of his trade. When the ſovereign takes ſuch a monopoly to himſelf, or lets it to farm, as has been done in many ſtates, reſpecting ſalt, tobacco, and other commodities, he obtains by ſuch means a conſiderable revenue, limited only by his regard to what the people may ſuffer from an immoderate exaction upon a commodity of general uſe, or by the danger of ſuppreſſing that uſe altogether, if the profit attempted to be made amounts to a prohibition. The Roman ſtate, at a very early period of its hiſtory, took or let to farm the monopoly of ſalt The ſame meaſure has been repeated in different nations of Europe and Aſia, and is extended to a variety of other ſubjects.

Among the objections to this mode of taxation may be reckoned the neceſſity with which ſovereigns of almoſt every denomination muſt feel themſelves, being obliged to farm their monopolies, and thereby expoſe their people to all the vexations which accompany this mode of levying a tax, joined to the peculiar vexation of

of being prohibited from ſupplying themſelves with an uſeful or neceſſary article, at the eaſieſt rate.

The effect of monopoly, otherwiſe, may be the ſame either with that of a capitation tax, or of a fair aſſeſſment. A monopoly of the mere neceſſaries of life, or of any commodity which the poor muſt conſume, at leaſt, equally with the rich, has all the cruel effects of indiſcriminate capitation or poll tax; whereas the monopoly of any commodity of which men proportion the uſe to their means of procuring it, ſuch as are matters of luxury or ſuperfluous accommodation, has the effect of aſſeſſment ſo as to fall chiefly on the rich; or, if it fall upon perſons of unequal condition, it may do ſo in juſt proportion to their fortune, or to their conſumption of the article taxed.

But, in general it may be obſerved, that, if commodities are to be taxed, the form of cuſtoms or exciſe is preferable to that of monopoly.

The revenue of cuſtoms conſiſts in certain rates exacted for goods as they are paſſing in commerce. They are exacted at toll-bars, at the entry to markets, at the gates of cities, or at ſea ports.

The exaction of cuſtoms, no doubt, is an interruption to commerce, and as ſuch is avoided by nations whoſe principal trade conſiſts in the carriage of goods.

Cuſtoms are commonly advanced by the merchant, but conſidered by him as a part in the coſt of his goods, and to be recovered with profit in the ſale of his commodity; ſo that taxes of this

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this ſort actually fall upon the conſumer. By either merchant or conſumer, however, they are leſs felt as a grievance than any other form of taxation. The merchant ſubmits to pay cuſtom, becauſe he hopes to recover that and every other part of his advance with profit. The conſumer is almoſt inſenſible of it, becauſe it is paid as a part of the price of the commodity, which he freely buys, and from the uſe of which he is free to refrain whenever he becomes unwilling to pay the price.

As goods in commerce paſs through a number of hands, and are paid for, ſucceſſively by different traders, it is evident that the earlier any cuſtom is paid to the revenue, in the tranſmiſſion of articles from the hands of the producer to thoſe of the conſumer, the heavier will that duty fall on the latter, as he will be made to refund with profit the advance which every intermediate trader has made; and the more will what he is made to pay, in conſequence of a duty ſo early advanced, exceed what actually paſſes into the coffers of the ſtate. To obviate this and ſome other inconveniences, ſuppoſed peculiar to the revenue of cuſtoms, the duties of exciſe have in ſome caſes been preferred.

The exciſe, when ſtated in contradiſtinction to cuſtoms, is a duty exacted from commodities in the actual uſe, and paid, not by the merchant, in any ſtage of the trade, but by the conſumer.

In this form of a duty, all interruptions to commerce are propoſed to be avoided, and the duty ſimply exacted from the conſumer, without any accumulation of impoſitions on the coſt of the article. In nations, however, where the ſubject is fond of his immunity,

nity or exemption from the controul and inſpection of government, it is difficult to inſtitute a revenue of exciſe, in the perfect form of its definition, as *a tax levied from the conſumer*. The citizen expoſed to ſuch exaction would be aggrieved, in having his dwelling always laid open to the intruſion of the revenue-officer, and his manner of life ſubjected to inſpection. To avoid theſe inconveniences, the exciſe in Great Britain is no more than an approximation to the model propoſed under this title. It is a duty exacted not from the conſumer, but from the producer or laſt vender of the commodity; who, on account of the profits to be made by his trade, may ſubmit to the inconvenience of having it inſpected.

Another occaſion of diſlike, which, in this iſland, is taken to the revenues of exciſe, is more accidental. The firſt duties of this kind, that were ſettled on the crown, were given in lieu of certain feudal rights which the king was entitled to exerciſe at diſcretion; and it was thought reaſonable that their equivalent ſhould be adminiſtered in the ſame manner with that part of the former revenue for which it was ſubſtituted. It is accordingly adminiſtered by a revenue board; and queſtions that ariſe with reſpect to it, are decided by commiſſioners, without admitting the ſubject to a trial at common law. The exciſe laws, accordingly, being ſuppoſed leſs favourable to the people than thoſe by which their rights are adminiſtered, in other inſtances, are conſidered with peculiar diſlike.

But apart from theſe conſiderations which are peculiar to the free ſpirit of this conſtitution, the merit of exciſe, like that of any other tax impoſed on commodities, whether levied by monopoly or cuſtoms, is meaſurable by the nature of the commodity on which

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which the duty is paid. It may be a tax either on the poor or on the rich separately, or on all the different ranks and conditions of men, according to the degree in which they consume the commodity taxed.

No revenue can be considerable, that is derived only from a few, or from a particular class of the people. In the choice of articles to be taxed, therefore, subjects of very general consumption, if made to pay what even the poor can afford at the rate of their own consumption, and which in the greater or increasing consumption of the rich may amount to a payment proportioned to their fortunes, is no doubt the preferable object of taxation, whether in this form of excise or any other.

SECTION VI.

The same subject continued.

IN whatever manner a public revenue be conſtituted, whether in all or any of the ways now mentioned, a queſtion ſtill remains, In what manner the public reſources are to be applied to the occaſional exigencies of the ſtate? PART II. CHAP. VI. SECT. VI.

An ordinary expence is to be provided for, from ſome ordinary fund; but ſudden or extraordinary occaſions require ſome immediate or extraordinary ſupply; and it is an important queſtion in the adminiſtration of public revenue, In what manner this ſupply is to be obtained, whether by calling upon the ſubject, at every particular emergency, to contribute proportionally to the occaſion; by having a treaſure reſerved from the ſavings of an ordinary income; or, laſt of all, by anticipating a future revenue in money borrowed, and chargeable with intereſt on ſome public fund?

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There is no doubt that contributions proportioned to the occasion, if these could be always obtained, would be the most proper and safest manner of accommodating revenue to the variable exigencies of the state. In this manner, persons entrusted with government might be restrained from engaging in projects of expence beyond their means or resources. Perpetual taxes would not be imposed for temporary or precarious advantages; nor would the errors of a passing age leave, for a monument of its misconduct or misfortune, an unnecessary burden to be borne by posterity. But it may not be practicable, on every emergency, and on those even the most pressing, to find a supply fully adequate to the occasion; and a nation thus trusting its safety to the supply of the moment, would be exposed to much disadvantage, and even danger.

The occasions on which a people are likely to be called upon to contribute most largely, are the very times in which their means are the most likely to be impaired, or they themselves precluded from the command of them. Such might be the case in time of invasion by a foreign enemy; when lands are laid waste; when the stock of the husbandman and manufacturer is carried off or destroyed; or even in case of war at a distance, or when the channels of trade are obstructed or turned away from their usual course, and the returns of profit are interupted or rendered precarious. In all such cases, no revenue suddenly constituted can be equal to the occasion.

The provident statesman, therefore, we may suppose, would be prepared for for such an emergence in one or other of the ways we have mentioned; that is, he would manage his ordinary in-

come in ſuch a manner as to have ſome ſavings reſerved in his coffers to meet ſuch extraordinary occaſions; or he would borrow upon credit from the few who are in condition to lend what the public may not then be in condition to advance; but which it may be in condition to repay in a more favourable time.

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The firſt of theſe practices, in amaſſing a treaſure hath been adopted by ſovereigns in many ſtates both ancient and modern. It is peculiarly adapted to the character of a prince, who is able in ordinary times to ſtretch the reſources of his people to their utmoſt, or who is entitled at diſcretion to call upon them to contribute what he has not any immediate occaſion to expend.

If indeed the ordinary revenue is ſuch as the people can eaſily ſupply, and the ſaving proceeds rather from the moderation and wiſe oeconomy of the ſovereign, than from his rapacity in extorting from the people more than is conſiſtent with their proſperity to give; in ſuch a caſe, the formation of a treaſure by public ſaving is unqueſtionably a wiſe meaſure, and ſovereigns are entitled to reſpect in proportion as they purſue it ſteadily and ſucceſsfully.

In purſuit of this meaſure, however, it is aſſumed, that more may at all times be exacted from the people than there is any immediate or preſent occaſion to expend; that a capital or ſtock, equal to the public ſavings may be withdrawn from the lucrative trade of the ſubject, and lie unemployed in the coffers of the ſtate. But to withdraw any part of the public ſtock, in this manner, from public uſe, is no doubt an inconvenience; and it will be the more ſenſibly felt, in proportion as the people are induſtrious, and qualified

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lified to improve the ftock in their hands, by employing it in the hire of ufeful labour.

The objections thus ftated to either of the two former ways of adminiftering a revenue, whether by making demands, on every emergency, proportioned to the occafion; or, by hoarding at one time what may be wanted at another, may be removed by adopting the method which has been mentioned in the third place, viz. that of borrowing a capital for any fudden or extraordinary cafe; and, by creating a fund, or impofing a tax no more than fufficient to pay the intereft of the debt fo contracted.

In this practice, the lender is tempted by the equitable or lucrative terms which are offered to him; the public is tempted by the convenience of obtaining great fums, adequate to the occafion, upon the credit of a fmall or inconfiderable tax, government, at the fame time, referving the option of paying up the capital at a convenient time, or leaving the fund allotted to pay the intereft in a transferable form, all parties are fully accommodated.

The creditor, although the public debt fhould not be paid, may recover his capital at pleafure by the fale of his ftock: But the continuance of this practice requires that the good faith of the public fhould be known, and a perfect confidence eftablifhed in the fecurity it has given. The practice is therefore moft likely to fucceed, where the people, by themfelves or their reprefentatives, have a fhare in the government, and are confulted particularly in what relates to the revenue of their country. As their confent is required to the levying of taxes, they are likely to prefer a fmall tax, though with the burden of a perpetual annuity, to heavy taxes for the prefent, without any fuch burden. Un-

der ſuch conſtitutions of government, while the public at large become debtor, ſome part of that public alſo becomes the creditor, and in this capacity is deeply intereſted in having the public faith ſtrictly obſerved. PART II. CHAP. VI. SECT. VI.

By this expedient, nations are qualified, on great occaſions, to make exertions proportioned to their credit, and may ſometimes overwhelm an enemy of ſuperior ſtrength, whoſe coffers are drained, and who has not an equal acceſs to this reſource.

For this reaſon nations who have ample credit will ever be tempted to employ it, and proceed in accumulating debt ſo long as the increaſe of their wealth enables them to provide for the ſupply of funds on which the public credit may be ſecurely eſtabliſhed.

This policy, however is ſuppoſed liable to peculiar objection, and is indeed threatened with evils of a very ſerious nature. It opens a new ſpecies of trade in the transfer of public funds attended with profit and loſs to individuals, but unlike the employment of ſtock in manufacture or commerce, which tends to the increaſe of national wealth, it reſembles rather the viciſſitudes of a gaming table, turning the induſtry and ſkill of thoſe concerned into inſtruments of mutual deſtruction, by which they would prey upon one another; ſo that, whoever gains, the public is ſure to loſe to the amount of a labour which is ſo miſapplied. The more that the public funds increaſe, the more ſcope is given to this ruinous branch of traffic; and the ſtreets of a capital, inſtead of the concourſe of a buſy people, who are labouring to increaſe the wealth of their country, exhibit crouds of adventurers who are haſtening to partake of its ſpoils. They lend, not to

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to accommodate their country, but to make profit on every occafion of public expence or calamity.

The ftatefman, in the mean time, is tempted by the facility of borrowing to be lavifh of the public credit. The monied men encourage him, that they themfelves may have lucrative bargains; and they from whom a tax is to be levied prefer a light burden in which their pofterity is to bear a part, to one more heavy, of which they themfelves muft have borne the intire load.

A national debt may be increafed almoft infenfibly, while the means and the ftrength of the people continue to grow; but no progrefs in human affairs is infinite, and whatever may be the ftrength of a people, a load that is continually growing muft overwhelm them at laft; or, to fpeak without a figure, the intereft of a debt that is continually accumulating muft come in the end to equal, or even to exceed, all the funds which can be found for payment of its intereft.

Upon this account, it is a wife policy to eftablifh fome form, in which a debt that is gradually increafing, by recourfe to the public credit on every accidental occafion, may alfo be gradually diminifhing, in times of refpite from every fuch occafion.

It may happen fortunately for nations in which the meafure of borrowing is adopted, that the intereft of money, by the accumulation of unemployed capital, may be confiderably reduced; and in this cafe the public, by borrowing at a reduced intereft to pay off the original debt, may confiderably diminifh the annuity which they were originally bound to pay. In this manner, while the capital of the debt in Great Britain was increafing, the annuity,

nuity, by a mere reduction of intereſt, was kept from increaſing, in the ſame proportion. An original intereſt, in ſome inſtances, of eight *per cent.* being reduced to three, it may happen that, while the capital of a debt is doubled, the annuity receives no increaſe, or may even be reduced. PART II. CHAP. VI. SECT. VI.

So far, however, it appears from the whole of theſe obſervations, that ſtates, in adopting any ſpecific form in the adminiſtration of revenue, are expoſed to peculiar inconveniencies or difficulties; and it is probable, that no two ſtates can with equal advantage have recourſe to the ſame expedients. One ſtate may not be expoſed to any ſuch great or ſudden emergency as may not provide for by an effort made on the occaſion; and, in ſuch caſe, it is undoubtedly expedient to accommodate the ſupply to the ſervice for which it is wanted.

As every ſtate may to a certain extent proceed in this manner, and on many occaſions find a ſupply proportioned to the exigence of the caſe, it is undoubtedly wiſe, ſo far as is practicable, to accompany every emergence with a ſuitable proviſion, while, at the ſame time, care may be taken to have ſome treaſure reſerved in the coffers of the ſtate, for occaſions which cannot thus be provided for by occaſional ſupplies. Thus, the Romans who had repeatedly ſuffered under ſudden invaſions from the warlike nations of Gaulic extraction, reſiding within the Alps, had a ſacred treaſure reſerved, which it was deemed profane to touch, but in caſe of ſome ſuch alarm from that quarter as threatened the public with immediate deſtruction.

Notwithſtanding theſe maxims, it muſt alſo be admitted that, where ſtates are fortunately circumſtanced with reſpect to credit, and,

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and, by means of this advantage, are able to maintain their ſtate againſt nations otherwiſe more powerful than themſelves, it were no doubt impolitic in them, to forgo their advantage, or to ſuffer themſelves to be overwhelmed, rather than employ a ſpecific means of defence which they in a particular manner have in their power.

But, without dwelling any longer on the compariſon of different forms for the adminiſtration of revenue, we may obſerve, that the wiſdom of any public expence is to be eſtimated by the occaſion on which it is made; and public profit or loſs from any adventure is to be meaſured by the return which it brings, whether adequate or unequal to the coſt.

An expence, in whatever manner it be provided for, whether by ſavings made of the paſt, or by anticipations of a future revevenue; or, in whatever manner it be diſburſed, if it either were unneceſſary, or did not bring a proper return, is to be conſidered as an article of public loſs.

On the contrary, an expence which is neceſſary to public ſafety, or which brings an overbalance of gain, in whatever manner the ſupply be obtained, may be conſidered as part in the courſe of a proſperous nation. Not only poſitive acquiſitions, but loſſes avoided, and the maintenance of a people in their progreſſive courſe of improvement, may be ſtated in account againſt the debt which is incurred, and be ſufficient to create a balance in favour of the nation by whom it is contracted. Mere debt, therefore, is not to be conſidered as an article of loſs, or even inconvenience which the national gain may not amply compenſate. Nor are

we

we raſhly to conclude, that a nation is the poorer for every article of debt it has contracted, until we have conſidered to what effect the money ſo procured has been expended, and whether the public advantages gained by means of it are fully adequate to the riſk and the coſt.

At the ſame time, admitting this rule to be followed in the eſtimate of profit and loſs, whether from money ſpent or borrowed, the peculiar effect of a national debt contracted is merely to transfer exiſting property or revenue, from the perſon who formerly conſumed it, to a perſon who now receives it in the form of intereſt for his money. In this form, the property is at once of uſe and transferable with more eaſe than in any other form whatever. To the ſtockholder it joins the convenience of a bank with the profit of a mortgage, and is of great benefit to the trader at every little interval at which his money is unemployed. We cannot doubt, therefore, apart from the advantage of credit in the public operations of a people, that it is a public benefit alſo to have part of the national property in this transferable form: How much, it may be difficult to determine. It may, no doubt, with advantage, be increaſed to a certain degree; but not indefinitely. And it is wiſe, as the public occaſions may tend to accumulate debt, that there ſhould be a public regulation alſo, tending to diminiſh it *. In this manner, the balance of univerſal order is beautifully preſerved throughout the ſyſtem of nature †.

Where

* As in the commiſſion for managing a ſinking fund.

† The influx of rivers is balanced by evaporation from the ſea; and the projectile impulſe of planets is circumſcribed within certain bounds by central forces.

Where the money wanted cannot be raiſed within the year, it may neverthelefs be raiſed within a limited period, if the fund provided ſhould be ſufficient not only to pay the intereſt, but alſo to extinguiſh the debt within a ſpecified time.

SECTION

SECTION VII.

Of Civil or Political Liberty.

THERE is a meaning annexed to liberty which is highly interesting to every ingenuous mind. Its votaries are ſuppoſed to have a common cauſe with their fellow creatures, and ever occupy a diſtinguiſhed rank in the liſt of the heroes. It is thus that Pelopidas and Thraſybulus, Dion, Cato, and Brutus, riſe above the level even of eminent men. It inſpires magnanimity and nobleneſs of mind; at the ſame time, like every other object that greatly concerns mankind, certain miſapprehenſions of it, or falſe pretenſions to it, give occaſion to great abuſe. The zealot for liberty has run into the wildeſt diſorders; and adventurers, under pretence of promoting it, have found their way to the moſt violent and pernicious uſurpations *.

* To this we aſcribe the Tribunitian diſorders at Rome, and the uſurpations of Cæſar and Cromwell, &c.

On a ſubject ſo intereſting, we are deeply concerned to have juſt information; and, as the ſubſtitution of a falſe idol for this object of ardent devotion has led to ſuch fatal extremes, we are no leſs concerned to reprobate the idol with horror, than we are with fond devotion to reverence the genuine object of worſhip; and may very properly, in our way to the formation of a juſt notion of liberty, begin our reſearches by obſerving what it is not.

Far fetched knowledge is not the moſt uſeful, either in the formation of theories, or in the conduct of life; and it is in the common courſe of things we muſt look for the rule to direct us in either. It is alſo in the moſt common or vulgar errors we have to dread the greateſt danger to the peace and welfare of mankind. However perſons of reflection, therefore, may think it idle to waſte time in correcting ſuch errors, we muſt attend to the common notions of men, reſpecting a matter in which the plurality of voices may often prevail over reaſon and good ſenſe. Upon this account we may be allowed to obſerve, in the outſet, that liberty or freedom is not, as the origin of the name may ſeem to imply, an exemption from all reſtraint, but rather the moſt effectual application of every juſt reſtraint to all the members of a free ſtate, whether they be magiſtrates or ſubjects.

It is under a juſt reſtraint only that every perſon is ſafe, and cannot be invaded, either in the freedom of his perſon, his property, or innocent action. If any one were unreſtrained, and might do what he pleaſed, to the ſame extent alſo every one elſe muſt be expoſed to ſuffer whatever the free man of this deſcription were inclined to inflict; and the very uſurpation of the moſt outrageous

outrageous tyrant is no more than a freedom thus aſſumed to himſelf.

Under this miſtake, the vulgar conceive a zeal for liberty to conſiſt in oppoſition to government; take part with every refractory ſubject; and ſeem to think that whatever impairs the power of the magiſtrate muſt enlarge the freedom of the people. It is material, then, to remember that every perſon whatever, no leſs than the magiſtrate, if not properly reſtrained, may treſpaſs on the liberty of his fellow creature; and that the eſtabliſhment of a juſt and effectual government for the repreſſion of crimes, is of all circumſtances in civil ſociety, the moſt eſſential to freedom: That every one is juſtly ſaid to be free in proportion as the government under which he reſides is ſufficiently powerful to protect him, at the ſame time that it is ſufficiently reſtrained and limited to prevent the abuſe of its power. This is the roof under which the free citizen takes ſhelter from the ſtorm of injuſtice and wrong; and he is no leſs concerned to know that the roof is tight and ſufficient to repel the ſtorm, than he is to know that it is well ſupported and ſecured from falling on his head.

We are ſafe, then, to define liberty, the operation of juſt government, and the exemption from injury of any ſort, rather than merely an exemption from reſtraint; for it actually implies every juſt reſtraint. It muſt be admitted, at the ſame time, that to a being whoſe active exertions are a principal ſource of his enjoyments, reſtraint, if capricious or unjuſt, may be conſidered among the firſt of his grievances; and there is no infringement of liberty more ſenſibly felt than a teazing impoſition of frivolous obſer-

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vances, or an arbitrary reftraint impofed on the harmlefs purfuits of an ordinary life.

It is highly grateful to the human mind to purfue its innocent courfe undirected and uncontroulled. It is even flattered with the imagination of romantic fcenes, in which nature is free; not bound to any tafk; not refponfible to any authority; not hampered by any forms; and left to purfue the object of the moment in the way that the prefent moment fuggefts. This we conceive to be the ftate of the favage in his foreft, connected only with the objects of his affection or choice; and, even in his engagements with thofe he loves, releafed from any fenfe of awe, controul, or reftraint, whatever.

From this ftate of fuppofed perfect freedom, we apprehend that every ftep which is made towards a political eftablifhment muft be to the individual a furrender of fome original right; but we are difpofed to apologife for the conceffion a free citizen has made, by ftating the facrifice of a part as neceffary to fecure the remainder.

Liberty, therefore, if moft perfect in the condition of the favage, it fhould feem from this account of the matter, is at leaft infecure; and this circumftance overthrows the very idea of that freedom which confifts in the fecure enjoyment of rights. The favage may, if he will, retire from the haunts of his fellow creatures, and avoid them as he himfelf is avoided by thofe animals of which he is difpofed to make a prey. But, while he lives within reach of other men, he himfelf if weak may be a prey to the ftrong; or, if individually ftrong, he may ftill be a prey to numbers, if perchance they fhould combine againft him. His freedom, then, is precifely no more than a privilege to deny himfelf all the com-

 forts

forts of a man, in order to avoid the inconveniencies of a dangerous neighbourhood: Or, if ſecurity be neceſſary to liberty, in what manner, we may aſk, can he at once poſſeſs and ſecure his comforts? Only by the concert of many, mutually to defend one another, and for this purpoſe to act under a common direction. This, in other words, is to form a political eſtabliſhment; and ſo far mankind univerſally proceed to adopt ſome ſpecies of polity upon the ſuggeſtion of nature, or the early leſſons of experience in ages otherwiſe rude.

Now, it may be aſked, what has the individual ſurrendered in coming under ſuch an eſtabliſhment? the freedom of retiring from his kind, ſhall we ſay, and of relinquiſhing all the comforts of ſociety? But this he has in fact no where ſurrendered. This ſort of freedom is ſtill entire to the citizen of London and Paris, as much as to the original inhabitant of Canada or Labrador. But the ſubject of any regular government will ſcarcely think it a privilege that he may, if it ſo pleaſe him, relinquiſh all the comforts and ſecurities of life under the notion of recovering the original freedom of his kind. Security, in fact, is the eſſence of freedom; and, if ſecurity is to be obtained under political eſtabliſhment alone, there alone alſo is freedom obtained: and, in repairing to this ſhelter, when properly inſtituted, the ſavage ſurrenders nothing, or rather in the acquiſition of ſecurity acquires every thing.

Freedom or liberty, then, we may conceive to be the genuine fruit of political eſtabliſhment: But, where the fruit is wanting, the tree is juſtly accurſed for its barrenneſs, or torn up by the roots for its yielding a poiſon inſtead of a wholeſome food. When liberty is conſidered as the cauſe of the innocent againſt the guilty, or of the weak againſt the ſtrong, and awakens the heart againſt

againſt inſult and wrong, we may eaſily account for the ardent and enthuſiaſtic affection with which it is embraced by every ingenuous mind. Mere reſtraint, however injurious, is but one ſpecies of wrong, and would form but a partial account of the evils which render the tyrant ſo much an object of indignation to mankind.

But to the negative propoſition thus ſtated, that liberty does not conſiſt in mere exemption from reſtraint, we may ſubjoin another, That it does not conſiſt in the equality of ſtation or fortune. In this ſenſe, liberty were a mere chimera or viſion, never realized in the ſtate of mankind. The nations who contended moſt for the equality of citizens, in admitting the inſtitution of ſlavery, treſpaſſed moſt egregiouſly on the equality of mankind.

Nay, but we ſhall be told, that all men were originally equal. This, in regard to property, can mean only, that, when no one had any thing, all men were equally rich: But even this is no more than fancied equality in a ſingle point. In reſpect to ſex and age, ſtrength of body and mind, individuals are deſtined to inequality from their birth; and, almoſt in the firſt ſteps of ſociety, bear the diſtinctions which induſtry and courage give in the different attainments of men, and lead in the ſequel to all the varieties of profeſſion and fortune.

The only reſpect in which all men continue forever to be equal, is that of the equal right which every man has to defend himſelf; but this involves a ſource of much inequality in reſpect to the things which any one may have a right to defend. As every one originally had a right to preſerve himſelf in the juſt uſe of his limbs, organs, and faculties, he has alſo a right to what theſe

may

may juſtly procure for him; he has a right to engage himſelf in any bargain or compact, and to ſtipulate for himſelf any fair condition; he has a right to acquire by his labour any unappropriated ſubject, or any ſubject appropriated with conſent of the former proprietor. In the exerciſe of theſe rights, the conditions of men, whether in reſpect to poſſeſſions, or in reſpect to their mutual conceſſions or claims of ſervice, may become unequal to any fair amount; and it is not poſſible to prevent the inequality of condition in the fortunes of men, without violating the firſt and common principles of right in the moſt flagrant manner.

Whilſt we admit, therefore, that all men have an equal right to defend themſelves, we muſt not miſtake this for an aſſumption that all men muſt have equal things to defend, or that liberty ſhould conſiſt in ſtripping the induſtrious and the ſkilful, who may have acquired much, to enrich the lazy and profligate, who may have acquired nothing, or who may have waſted all they could reach. It is impoſſible to reſtrain the influence of ſuperior ability, of property, of education, or the habits of ſtation. It is impoſſible to prevent theſe from becoming in ſome degree hereditary; and of conſequence it is impoſſible, without violating the principles of human nature, to prevent ſome permanent diſtinction of ranks: And, if this were poſſible, it is far from expedient in the circumſtances of human life. In theſe inequalites we find the firſt germe of ſubordination and government ſo neceſſary to the ſafety of individuals and the peace of mankind; and in theſe alſo we find the continued incentive to labour and the practice of lucrative arts.

As liberty conſiſts in the communication of ſafety to all, nothing could be more repugnant to it than the violation of right in any part, in order to level the whole. It is true that great inequalities of

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of fortune are adverſe to ſome ſpecies of political inſtitution; that great diſtinctions of rank, founded in birth alone, to the excluſion of merit, or to the ſuppreſſion of all the efforts of diſtinguiſhed ability in public ſervice, is a corruption fatal to mankind; that unreſtrained poſſeſſion of arbitrary power of any ſort, is for the ſake of liberty and juſtice, to be carefully watched and ſtopped ſhort of the extreme to which it may tend: But, as every one has a right to the condition in which, by the ordinary courſe of human nature, he is fairly placed, in which he is no way injurious to his fellow creatures, it muſt follow that liberty, in every particular inſtance, muſt conſiſt in ſecuring the fairly acquired conditions of men, however unequal.

Diſtinctions of fortune may give riſe to a ſeparation of ariſtocratic and popular factions, or a ſuppoſed oppoſition of intereſts, in the different orders of a people; and we will have occaſion to obſerve that neither is ſafe without ſuch a ſhare in the government as may enable them to defend themſelves, or put a negative on any meaſures which might be prejudicial to their reſpective intereſts. Both the high and the low, however, frequently aſpire to the government of their country. The one is ſaid to contend for authority, ſubordination, and power; the other for liberty, immunity, or privilege: But liberty is far from being ſafe in the excluſive prevalence of either. This will not be diſputed relating to the unreſtrained prevalence of ariſtocratic authority. But it is no leſs true, that liberty does not conſiſt in the prevalence of democratic power. The violence of popular aſſemblies and their tumults need to be reſtrained, no leſs than the paſſions and uſurpations of any other power whatever; and there is indeed no ſpecies of tyranny under which individuals are leſs ſafe than under that of a majority or prevailing faction of a corrupted people.

From

From theſe obſervations, upon the whole, it appears, that liberty conſiſts in the ſecurity of the citizen againſt every enemy, whether foreign or domeſtic, public or private, from whom, without any proviſion being made for his defence, he might be expoſed to wrong or oppreſſion of any ſort: And the firſt requiſite, it ſhould ſeem, towards obtaining this ſecurity, is the exiſtence of an effective government to wield the ſtrength of the community againſt foreign enemies, and to repreſs the commiſſion of wrongs at home. Under this protection, indeed, there may be danger from the very power which is eſtabliſhed to afford it; but, without ſome ſuch proviſion, there cannot be any degree of ſafety whatever.

In purſuing this idea of liberty, therefore, through the ſeveral circumſtances that may be neceſſary to give it reality and effect, we have to conſider, in the firſt place, what may be neceſſary to give an eſtabliſhment efficacy in reſtraining the diſorder of the ſubject: Next, what precautions may be neceſſary in the inſtitution of power, to prevent the abuſes that may be apprehended in the diſcharge of its functions.

Theſe functions, we may conceive under three ſeparate titles, *legiſlation*, *juriſdiction*, and the *execution of the law*, or *conduct of the national force*. And, correſponding to theſe functions, in every political eſtabliſhment, three diſtinct powers may be conſidered; namely, the *legiſlative*, the *judicative*, and the *executive*. With reſpect to each of theſe, liberty requires that the powers ſhould be effectual to the eſtabliſhment and preſervation of order on the part of the ſubject, and that it ſhould be ſo exer-

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cifed on the part of the magiftrate, as not to offer any injuftice or wrong to the people.

In farther treating of liberty, therefore, we are to confider the inftitutions of government required for the difcharge of the principal functions now enumerated, and providing at the fame time for the efficacy of power, and the fafety of thofe who might be expofed to fuffer from its abufe.

SECTION VIII.

Of Liberty as it may be affected by the Exercise of the Legiſlative Power.

LAW is the ſovereign will to which every part of the community muſt conform itſelf. That power, therefore, whether ſingle or combined of many parts, which gives law to the community, muſt be ſupreme; and, when its will is declared, cannot admit of any controul, without a diſſolution of the political frame. PART II. CHAP. VI. SECT. VIII.

Upon this ground, liberty ſeems to require that every member of the commonwealth ſhould have acceſs, before the law is enacted, to guard himſelf againſt any wrongs to which he may be expoſed from the admiſſion of any partial regulation; or, in other words, that the people of every ſeparate order or rank, however diſtinguiſhed by fortune, ſhould each have an active ſhare in the legiſlature of their country.

At

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At the ſame time, if this be admitted, it ſhould ſeem to follow that liberty muſt be confined to a few democratical ſtates, in which alone it is poſſible to comply with this condition. And ſo indeed, among antient nations, liberty was ſuppoſed peculiar to republics, and to thoſe eſpecially in which the ſovereignty was exerciſed by the collective body of the people. Upon this ground, the republics of Greece and Italy were, with a few exceptions, diſtinguiſhed from the reſt of the world.

But the practice of repreſentation, ſo happily introduced in ſome modern nations, though not of ſo great extent as to admit of their people being collectively aſſembled, has removed this difficulty, and enabled every order of the ſtate, if not collectively, at leaſt by deputation, to take a part in the legiſlature of their country, and to have a vigilant eye on the proceedings of the whole.

What renders this expedient, of truſting the intereſts of many to a few, a ſufficient ſecurity to the people who rely on it, is that their repreſentative, by being a perſon of the ſame mind and intereſt with themſelves, and himſelf included in every act of legiſlation, is likely to proceed as his conſtituents would do in his place. In whatever manner the repreſentative be ſingled out, if he bear theſe qualifications, human nature does not ſeem, in ſtates of conſiderable extent, to admit of any greater ſecurity to liberty than this.

It may be thought that election is the moſt likely, if not the only way of ſecuring theſe qualifications in the perſon who is to repreſent the people; but, if the roll of the citizens be ſufficiently purged of all perſons unfit or unworthy to partake in the legiſ-

lature

lature of their country, the repreſentative might no doubt without any danger be drawn by lot.

But here we may be told, " That more is required to complete the advantage of a form in which citizens act by repreſentation: That it is not enough the repreſentative partake in the intereſt of thoſe he repreſents: That he ought to feel himſelf in the exerciſe of a truſt committed to him by the confidence and good will of his fellow-citizens, and be led to act from affection in return for their eſteem." This, indeed, however little it may be neceſſary to ſecure his regard for an intereſt in which he himſelf partakes, is the true ſtate of a man and a citizen acting for the welfare of his country.

With this, alſo, it may farther be urged, " That every ſtatute being a treaty or act of convention between the parties concerned, and, like any other compact, is binding only upon thoſe who in perſon, or by their commiſſioners, have given their aſſent; the repreſentative muſt have an expreſs commiſſion or deputation, entitling him to bind his conſtituents before he can ſubject them to any condition in the form of law; and that in acts of legiſlation, every individual has a right to name his repreſentative, or, if this right be withheld from him, that he is not bound by any deed which may follow."

Upon this plea of abſolute right in every individual to be bound only by his own aſſent, it ſhould be allowed that, prior to convention, a people cannot be bound to any act in which they are not unanimous. Where any individual diſſents, he does more than withhold his agreement, he declares a repugnance: But when a plea thus amounts to ſomething that has never been realized in the hiſtory

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hiſtory of mankind, ſtill more, if its object be ſuch as cannot be realized, there is reaſon not only to doubt its validity, but actually to conſider it as altogether nugatory and abſurd.

Laws are every where acknowledged to be binding on perſons who are never called upon to give their aſſent, either by themſelves or their repreſentatives. And where it is propoſed to have a general aſſent, ſtill the aſſemblies which are held for this purpoſe are partial, and far from admitting every ſubject, without exception, for whom the law is to be made. One of the ſexes, though by nature veſted with every right; and a great part of the other ſex, upon an arbitrary diſtinction of nonage *. are excluded altogether; many are kept away by diſability of health or decline of age; yet, it never was ſuppoſed, in any caſe whatever, that theſe are to have a diſpenſation from the law. Even of the few who attend deliberative or elective aſſemblies, it ſeldom happens that the whole is unanimous. And if the majority in fact overule the minority, this prior to convention is a mere effect of power, not matter of right. The majority is no more than a government *de facto*, until the people at large, finding their account in the obſervance of ſome ſuch rule, and every individual, in his turn, availing himſelf of his advantage in being of the majority, by his acquieſcence, gives it a right of convention in the ſame manner as any other actual government receives the ſanction of compact, and becomes binding on thoſe who avail themſelves of the benefit it beſtows.

3 Prior

* The period of nonage has been varied from 18 to 21 and 25 years, and is in reality arbitrary. One perſon may have more ſenſe under 20 than another at 40 or 60, or any other time of his life; but, as children are incapable of public truſt, it is neceſſary that there ſhould be a rule in this matter to which all muſt conform.

Prior to convention, every one has a right to govern himſelf; but not to govern any one elſe. The government of others, then, prior to convention, is not matter of right to any one; although to have government, and this purged of every perſon incapable or unworthy of the truſt, is matter of expedience to every one. And under every wiſe political eſtabliſhment it becomes a queſtion, who may be ſafely entruſted with legiſlative power? for ſurely the indiſcriminate right of every one, whether capable and worthy, or incapable and unworthy, cannot by any means be admitted.

While we ſuppoſe the people, therefore, to partake in the legiſlature of their country, whether collectively or by repreſentation, a variety of queſtions are ſtill open to diſcuſſion:

1ſt, Who are to be admitted on the rolls of the people, and to have a deliberative or elective voice?

2d, In the caſe of a people too numerous to meet in any one body, in what diviſions are they to act?

Theſe queſtions, even under eſtabliſhments the moſt favourable to public liberty, have been decided as chance would have it. In all the ancient republics, the claſs of free citizens was but a ſmall part of the whole number that was ſubject to the law. At Athens, the moſt democratical of all the ancient republics, not a third; and at Rome, ſtill in a ſmaller proportion. Even the citizens, ſo reduced in their proportion to the whole number of men in the community, were never in fact collectively aſſembled. At Athens, of about two hundred and eighty four thouſand ſouls, including free citizens, aliens, and ſlaves, no more than five thouſand commonly met in the Eccleſia or national aſſembly; a proportion

rather

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rather to be confidered as a reprefentation than a collective body. At Rome, the people difperfed over the country towns and the provinces were, in the fame manner alfo, cafually reprefented in the comtia by fuch as frequented the ftreets of the capital. In the cafe of Athens, fo far as concerned the free citizens, being about 84,000, the reprefentation may have been adequate and fafe: Five thoufand citizens, inhabitants of the city, cafually taken from the whole, and making laws for themfelves and the community, were no way likely to invade the rights of the multitude; although, from their democratical fpirit, they too often invaded the rights of particular citizens, diftinguifhed by their fortunes, or even by their merit. The cafual reprefentation which took place at Rome was much lefs adequate or fafe. The diforderly inhabitants of the town gave law to their fellow citizens as well as to their fubjects and allies of the provinces.

In modern Europe, we are every where happily rid of that diftinction of free man and flave, which in antient times excluded fo many of the human fpecies at once from any means of defending themfelves, in forming the laws to which they were fubject. But even here, and where the fpirit of political eftablifhment is moft favourable to public liberty, there are ftill confiderable exclufions from the political meetings of the people, whether for police or election. Not to mention again the exclufion of women and children, there is in every country a diftinction of denizen and alien, by which many inhabitants are excluded from any fhare in the government to which they are fubject. In the little canton of Schweitz, the mafter and his fervant unyoke their team, and go to the national affembly together: But ftill the alien inhabitant muft abide by refolutions in which he has no part. In the firft attempts of the French Revolution to equalize the rights of men, a certain though

a very ſmall *cenſus* was required, to entitle the citizen to a vote at elections. In a ſubſequent appointment this cenſus was dropped; but ſtill thoſe who are to be governed by the law exerciſe their diſcretion, and menial ſervants are excluded. In Great Britain, a certain cenſus * is required, together with ſome circumſtances of freehold and burgeſs qualification. And even, notwithſtanding theſe qualifications, certain officers of the executive power, as being dependant on a part of the community diſtinct from the commons, are, by recent laws, excluded from a vote at the election of commoners to ſerve in parliament. But, notwithſtanding theſe excluſions, the liberty of the ſubject is more ſecure perhaps than it ever has been under any other human eſtabliſhment. And if any one plead that, being excluded from a vote at elections, he is not bound by the laws to which the people aſſent by repreſentation, his plea may be admitted, and he is at liberty to withdraw from the influence of theſe laws: But, while he remains within the precincts to which they extend, and continues to take the benefit of them, he is not at liberty to counteract or to diſturb the order of things eſtabliſhed. The public, to avoid a ſpecial diſcuſſion of the franchiſes of every individual; and the return of ſuch diſcuſſions, on every particular occaſion, have ſettled general rules for the better government of the country: And, if theſe rules carry an excluſion to any individual, he nevertheleſs owes to that law the ſame obedience that he owes

* Diſtinctions of rank, for the moſt part, are taken from birth or property; and we may cenſure the rule, but cannot reverſe it. It is even fortunate for mankind that a foundation of ſubordination is laid, too obvious to be overlooked by the dulleſt of men, or by thoſe who ſtand moſt in need of being governed. But, though property ſometimes overpower both ability and every other merit, yet there are occaſions in which it muſt give way to either. At elections and country meetings, men of fortune predominate; but armies are commanded, and ſtates are governed by men of ability.

to every other law of which he enjoys the effect and protection.

But, in refpect to thefe exclufions, and in refpect to other particulars, in matters of particular form, there is a confiderable latitude, within which varieties are found that do not effentially affect the liberties of mankind. As to the feparate divifions, in particular, in which a numerous people may affemble for any purpofe of ftate, they have for the moft part been cafual; as were the tribes or Curiæ at Rome; the tythings, hundreds, parifhes, counties, and borroughs, in Great Britain. Such divifions may be unequal; and yet, in perfect confiftence with freedom, have equal voice in the deliberative or elective proceedings of their country. The liberties of mankind do not totter upon a fingle point of fupport: They make for themfelves a large and capacious bafe, under a variety of forms, in which men ftill find themfelves in condition to defend their rights. All that can be faid in the matter is, that, if any people were to make up anew the rolls of their citizens, or to fet off the divifions in which they were to act, the rolls ought to be made up with the feweft exclufions, and the divifions fet off with the greateft equality, confiftent with reafon and public fafety. Where people indeed act by reprefentation, their liberty depends more upon the character of the reprefentative, than upon the form of proceeding, or the number of perfons who are admited to vote at elections; and when this matter is fettled upon any footing that is fafe, ftability is of more confequence than any advantage to

* Humanum eft errare.

to be gained by change. Too much fluctuation, or frequent transition from one set of rules to another, is, of all circumstances, the least consistent with that sense of security in which the possession and enjoyment of liberty consists.

SECTION IX.

Of the Judicative Power.

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IT is congenial to the nature of intelligent being, that the ſcene in which he is to act ſhould be governed by fixed and determinate laws, either obvious, or ſcrutable by the faculties with which he is furniſhed. Such, accordingly, is the ſcene prepared for man in the ſyſtem of nature.

It is alſo eſſential to the liberties of a people, that their rights ſhould be defined in well known and permanent regulations, from which the citizen may know his condition, without conſulting the caprice or uncertain will of any perſon whatever. As for this purpoſe there is required a legiſlature the moſt likely to form impartial laws, ſo alſo is required a judicature the moſt likely to give theſe laws their proper effect.

In

In whatever manner the powers of ſtate be diſtributed, that which gives law to the whole, we have obſerved, muſt be ſupreme; and though, by this circumſtance, the legiſlative power cannot admit of controul, either in the application or interpretation of its own enactments, yet it is perhaps by this very circumſtance, in ordinary caſes, diſqualified to exerciſe, in conſiſtence with the ſafety of the people, either the judicative or executive powers.

It were dangerous to allow of any latitude or any exerciſe of diſcretion, in the application of law. This is the tenure by which every citizen holds his right; and it were nugatory to ſay, that the tenure of law were ſecure, if it might be interpreted and applied at diſcretion. But it is impoſſible to ſeparate the idea of diſcretionary power from that of the ſovereign or ſupreme legiſlature. Perſons inveſted with ſovereignty, and inured to command, will not eaſily ſubmit to be reſtrained by rules which, though juſt in the principle, may, in particular caſes, appear inexpedient. The diſcretion that was exerciſed in framing the law will incline even thoſe by whom it was framed, under the influence of ſentiments or paſſions that may ariſe on particular occaſions, to diſpenſe with the rule which they themſelves had enacted. And if the law be departed from, in any caſe whatever, the citizen is ſo far aggrieved, or becomes inſecure of his tenure.

If the legiſlature be compoſed of members collected from the different orders of the community, as the ſafety of theſe differeut orders ſeem to require, there is indeed, even from ſuch aſſemblage of powers concentrated in the ſame aſſembly, leſs abuſe to be apprehended in the application as well as enactment of the

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the law. But ſuch numerous aſſemblies are peculiarly apt to enter into the paſſions and intereſts of a particular caſe, to communicate paſſion by contagion, and to become eager in the purſuit of any object by mere ſympathy or participation of zeal; ſo that one or other of the parties, to whom a law ſhould apply, in a particular caſe, may be liable to ſuffer by the heat or paſſion of a moment, a tenure which of all others is the leaſt ſecure by which any right can be held.

A perſon may be qualified to hold a place in the legiſlature of his country, by merely partaking in the intereſt or concern of the order or claſs of men he repreſents, or of which he makes a part; and he may provide for the ſafety of his conſtituents, by refuſing his aſſent to whatever is inconſiſtent with his own: But to exerciſe the office of judge, more may be neceſſary; an equal concern for the rights of all parties, and an adequate knowledge of the laws in which thoſe rights are defined.

Where the laws, therefore, are greatly multiplied, as is generally the caſe under inſtitutions of freedom, the ſtudy of law becomes the object of a ſeparate profeſſion; every one, whoſe right in a particular caſe is brought to the teſt of law, has recourſe to the aſſiſtance of learned counſel; and, as in the conteſt of parties each may have recourſe to partial counſel, it is neceſſary that the public alſo ſhould have counſel retained for law and juſtice.

Such we may conceive to be the character in which official judges are appointed, under every well regulated government.

As judgement, in any one inſtance, may be ſubject to error,

or incline to abufe, it is proper that there fhould be courts of appeal, and means of review; or, in cafe of apprehended corruption, it is proper that the official judge fhould be refponfible to fome tranfcendant jurifdiction which may take cognizance of his conduct, and reftrain a crime which would involve the whole community at once in its confequences. Here the legiflature itfelf muft interpofe; and, if for no other reafon than this, ought not, in the previous fteps of a fuit, to charge itfelf with the functions of judicative power.

In legiflation, citizens affemble with a profeffed intention to promote or to guard their own interefts, or thofe of their refpective orders; and, even in the exercife of judicative power, it may not be poffible to exclude the confideration of peculiar interefts, even from thofe who fit in judgement on the rights of fellow citizens: But, if any intereft is to be admitted in the tribunals of juftice, it fhould certainly be no other than the general intereft of the people at large; an intereft which is equivalent to juftice itfelf; which requires that no right fhould be violated, or that no violation of right fhould efcape punifhment.

This, in fact, is an intereft which the impartial citizen has in every queftion of law. If crimes may be committed, and a wrong may be done to any one, it may be done to himfelf. If an innocent perfon may fuffer under pretence of a criminal charge, fuch a charge, in the next inftance, may be brought againft himfelf. If crimes are not reftrained, or if criminals are fuffered to efcape, the innocent citizen may confider every criminal fo difcharged as an enemy let loofe againft himfelf and his family.

It

It appears, then, that a perſon ſo affected is equally qualified for the judicative as for the legiſlative truſt: He has every inducement to judge fairly, to the utmoſt of his ability, in every queſtion of civil or penal juriſdiction. He may need the aſſiſtance of learned counſel, or of the official judge, in directing the forms of procedure, in bringing queſtions to iſſue, or in pronouncing the ſentence of law; but, where evidence is brought before him, and the circumſtances of a caſe are fairly ſtated, he is fully competent, as in the ordinary affairs of human life, to perceive the reality of a fact, or to pronounce of a deed that has been done, whether it be guilt or innocence.

Such, indeed, is the deſcription and function of juries in the tribunals of ſome modern nations, who have fortunately in this inſtance refined on the practice of feudal eſtabliſhments, by which queſtions of right or criminal charge, in particular inſtances, were referred to the judgement of a few ſelect men from the vicinage. The occaſional tribunal ſo compoſed is termed a Jury, becauſe its members are ſworn to determine truly in the queſtions which come to be tried before them. The oath of the juror may no doubt be held in part a ſecurity for the truth of his verdict; and a like ſecurity might be had, by adminiſtering a ſimilar oath to the official judge: But the ſpecific ſecurity which is had in this caſe ariſes, not from the ſanction of an oath, but from the character and condition of the juror equally intereſted in civil queſtions, to ſupport every right, and to reſtrain every wrong, and, in penal queſtions, to protect the innocent, however accuſed, and to puniſh the guilty, however ſupported.

That

That this character, indeed, may be realized in every inftance, it is proper that a lift, collected indifcriminately from the vicinage in which any queftion has arifen, fhould be purged of all partial counfel, by challenge of the magiftrate or of the parties concerned, until they who are inclofed for trial fhall be free from any exception, whether of reafon or namelefs diftruft, that may lie againft them.

Men taken, for the occafion, from the mere ordinary walks of life, may be ill qualified to unravel the intricacies of of a judicial cafe; but, in this, it is the function of the official judge to affift them. Law is devifed for the people; and as, in the accumulation of its forms, there may be introduced a number of technical terms, with which lawyers alone are familiar, it is right that in every particular trial they fhould be brought back, if poffible, to the ufe of a language which all men underftand. This is the tenure by which every citizen holds his right; and it is proper that it fhould not be wrapped up in obfcurities. The official judge partakes in the magiftracy, and may be infected with its fpecific prepoffeffions againft the fubject. If his conduct occafion any fufpicion of this fort, the power of a jury is on this account alfo wifely interpofed to prevent its effects. And upon the whole we may venture to affume, that a tribunal fo conftituted gives to the citizen, in the poffeffion and exercife of his rights, all the fecurity which it is poffible to obtain through the medium of any human eftablifhment.

After all, it is poffible that, in thus attempting to fix canons of eftimation in matters of political inftitution, we may be partial to thofe of our own country, and miftake the forms to

PART II. CHAP. VI. SECT. IX. which we ourſelves are accuſtomed for the models of reaſon and wiſdom. It is, however, fortunate for a country to have inſtitutions which can be ſo miſtaken by thoſe who experience their effects.

SECTION

SECTION X.

Of the Executive Power.

WHEN a people is orderly, and affairs proceed with little interpofition of government, we may be apt to imagine that they might do without it: But the happieft effect of government is to prevent diforders, not to redrefs them. And when we confider the mixture of ill difpofition, folly, or miftake, that is ever inherent to human nature, the more probable inference from the cafe of a people at reft, is, not that government is needlefs, but that they are well or happily governed. The citizen muft not imagine that law is unneceffary to him, becaufe he has not had any occafion to recur to its protection. This want of occafion is itfelf the greateft proof of its energy. Were this energy witheld for a moment, the fmalleft leaven of depravity, in any part of the fociety, would foon deftroy the peace of the whole; and, by a licence to crimes on the one hand, and to private refentment on the other, would foon make a fcene of confufion and riot. Even where the inclination PART II. CHAP. VI. SECT. X.

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to evil is leaſt frequent, if it actually exiſt in any part, the whole muſt be on their guard.

Among the advantages to be reaped from ſociety, therefore, one, and a principle one, is, That numbers of innocent men, by uniting their forces, may be ſecure of their rights to a degree that could not be obtained by any ſingle perſon acting alone for himſelf. Under ſuch combination properly directed, the community is ſecure againſt any foreign enemy, and the individual is ſecure againſt any wrongs to which he is expoſed from the commiſſion of crimes.

To wield the national force for theſe purpoſes is the office of executive power; and the citizen knows not of any conſideration more eſſential to his liberty, than that there ſhould be ſuch a power fully adequate to the purpoſe for which it is eſtabliſhed. It is like the roof, by which thoſe who take ſhelter under it are protected from the ſtorm: It is the moſt eſſential part of their dwelling, and for the ſupport of which the walls and other parts of the building are chiefly contrived.

It were a great error, therefore, in the zealot for liberty, to ſet himſelf againſt the formation of an executive government, ſufficient to combine the ſtrength of the people, and to enforce the obſervance of juſtice in every part of the community.

At the ſame time, if we ſuppoſe that a power which is eſtabliſhed for theſe purpoſes were employed to violate the rights it ought to protect, there is no caſe more fatal to the liberties of the people: For, on this ſuppoſition, the arm which ought to defend is itſelf the force that invades. The remedy is become the diſeaſe;

and

and the roof, under which ſhelter is taken from a ſtorm, threatens a ruin more dreadful than the ſtorm it was intended to repel.

In reſpect to the executive power, therefore, in whatever form it be eſtabliſhed, it is equally the intereſt of the citizen that it ſhould be irreſiſtible in every act of juſtice, and that it ſhould be reſtrained in every commiſſion of wrong. And in this conſiſts the great problem of political wiſdom for ſecuring the liberties of the people, which are equally expoſed in the licence of the ſubject againſt the magiſtrate, as in the licence of the magiſtrate againſt the ſubject.

Of the functions of executive power, ſome are in continual exertion; others, whether caſual or periodical, are only occaſional. Some require great ſecrecy and diſpatch; others admit of being publicly known, and may be the better directed for having been publicly diſcuſſed.

Functions of ſo different a nature may be diſcharged with advantage, by powers differently conſtructed, and under different forms of proceedure.

Matters of an ordinary and public concern, ſuch as the adminiſtration of revenue, or the internal policy and government of a country, may be treated of in numerous councils, and taken up at regular periods, or at any convenient times.

Affairs that may come by ſurpriſe, and that require diſpatch, may be committed to ſingle men, as they are, in republics of ſmall extent, commonly entruſted to magiſtrates elected at determinate periods: And, in ſuch caſes, the abuſes of power may be guard-

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ed againſt by limiting its adminiſtration, as at Venice, or by ſhortening its duration, as in other ſmall republics of Italy.

It being the intereſt of the citizen, that the executive government employed in the defence of his rights ſhould, in that exerciſe of it, be altogether irreſiſtible; it is required, of courſe, that no other perſon within the ſtate, no faction or partial combination whatever, ſhould be able to withſtand the power of the magiſtrate when fairly exerted.

In republics uncorrupted, the elective magiſtrate is, by the reſpect which every citizen bears to the majeſty of the commonwealth, ſufficiently ſupported to enable him to ſuppreſs every diſorder to which any private faction or party may be inclined.

But, in republics greatly corrupted, faction and party often become too powerful for the legal authority, and the private citizen is ſometimes expoſed to injuries which the uſual forms of the ſtate cannot reſtrain. To remedy the defects of government, in ſuch caſes, the people have had recourſe to the temporary eſtabliſhment of extraordinary powers, as that of the decemvirs, or of dictators, at Rome. But, in times of great corruption, the remedy has proved worſe than the diſeaſe. The decemvirs abuſed and attempted to prolong their diſcretionary power, and the dictatorſhip ended in the uſurpation of perpetual deſpotiſm:—An emergence, indeed, which among many others in a corrupted ſtate may appear at the inſtant to be the leaſt of its evil; as at Rome, the uſurpation of Cæſar may have appeared a leſs evil than the dangerous tumults which were employed in the conteſts of Clodius and Milo.

In ſtates of the greateſt extent, the citizen, either by himſelf or his repreſentative, may have ſuch a ſhare in the legiſlature as may ſecure him from any encroachment on his rights in the form of law; but, without a ſufficient executive power, he may not be ſecure of the right which law confers upon him; or he may ſuffer from the crimes which become frequent under the licence which attends a weak government.

In great empires, there is a danger of diſunion and diſmemberment of provinces, as well as diſorder and licence of individuals; and, to preſerve the peace and give effect to the laws, in every corner of ſuch a dominion, it is perhaps neceſſary to veſt the executive power with all the prerogatives and influence of monarchy, and to take in aid of its authority whatever is fit even to impoſe upon the imaginations of men, the luſtre of birth, the ſplendour of a court, as well as extenſive patronage, and the command of a military force. So armed, the ſovereign may be able to repreſs every diſorder, and to overcome the reſiſtance of any party, or combination that may be formed to diſturb the public peace. And with theſe advantages, no doubt, he may be in condition to preſerve the rights of the citizen; but he may alſo, if not properly reſtrained, be in condition to invade thoſe rights; and hence the difficulty of arming the executive power with adequate force, and at the ſame time of reſerving a ſufficient ſecurity againſt the abuſe of that force, or to eſtabliſh ſuch a relation between the executive and legiſlative powers, as that neither ſhall, without proceeding to violence, encroach upon the functions or rights of the other; or that, in caſe of violence, the moſt daring uſurpation ſhould feel itſelf weak in proportion as it ventures to ſhock the general ſenſe of the people.

For

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For the firſt of theſe purpoſes, it is neceſſary that every branch of the legiſlature ſhould have all the power that is neceſſary to preſerve its own privileges; ſhould be perfectly free and unawed in its deliberations; and, though not in condition to obtain every article of law that may be propoſed for its own advantage, that it ſhould have a negative upon every article from which it apprehends a diminution of its rights. So far alſo it is proper that the executive power ſhould have a voice in the legiſlature; or, in other words, that to prevent encroachments upon its juſt prerogative, or any diimnution of that energy which ought to be exerted for the ſafety of the people, it ought to have a negative upon every act that may tend to ſuch conſequence.

It is eſſential to liberty, that, in matters to which the foreſight of legiſlature can reach, the operations of power ſhould be nothing more than the execution of law.

In reſpect to this object, wherever the people of every denomination, by themſelves or their repreſentatives, have a deliberative and negative voice in the legiſlature, they ſeem to have all the ſecurity that human nature can give: In the firſt place, a ſecurity that there ſhall be laws, according to which the executive power is to govern, and that theſe laws ſhall be equitable or juſt reſpecting the ſubject. And ſo far we have already, in what is obſerved on the ſubject of legiſlature and judicature, pointed out the moſt effectual ſecurities againſt the abuſes of executive government alſo.

Still farther, if the people in their legiſlative capacity retain the privilege of conſtituting and granting the public revenue, while

while they are careful to make it ſufficient for purpoſes of ſtate they may charge it with conditions ſufficient to prevent its miſapplication, or even withold it entirely, when they apprehend an abuſe. PART II. CHAP. VI. SECT. X.

In reſpect to judicature, when the very perſons who are moſt intereſted that no right ſhall be infringed, that no innocent man ſhall ſuffer, and no guilty perſon eſcape, are themſelves the perſons called upon to interpret and apply the law, the ſecurity of the citizen, whether in civil or criminal caſes, appears to be complete; ſo that, in what has been obſerved on the inſtitutions of judicature as well as legiſlature, the moſt effectual ſecurities againſt abuſes of the executive power have been already pointed out.

But there is nothing perfect in human affairs; and all the functions to which we have referred under the titles of legiſlation, juriſdiction, and execution, though neceſſary to the ſafety of the people, are all of them ſubject to abuſe, if not by their ſeparations rendered a mutual counterpoiſe, or a reſtraint from the errors to which they may be ſeverally ſubject. If any perſon or claſs of perſons, having a partial intereſt, were entruſted at once with the legiſlative and judicative power, that intereſt might be expected to prevail in the ſpirit and tendency of every law, or warp every judgement in the application of it. And if the executive power, which is neceſſarily partial, ſhould have the whole legiſlature and judicature, no civil liberty could poſſibly exiſt. Partial laws, in this caſe, according to Monteſquieu, would be enacted in order to be partially applied and executed; and errors committed in one form could not receive correction in any ſubſequent form of proceeding in the ſtate.

But, although ſuch dangerous accumulations of power be avoided, and the great principles of order, reſulting from the juſt authority of government and the privileges of the people, be admitted in form, they are not in effect ſecure otherwiſe than as the forces of the ſtate are properly adjuſted to give them effect. Law without force, is no more than a dead letter; and force, if improperly lodged, will fruſtrate all the precautions of a legal eſtabliſhment. It is not leſs dangerous in the hands of a profligate rabble who would level the conditions of men, than it is in the hands of an uſurper who would render them ſubject to his will. In order to obviate the danger from either of theſe quarters, the ſame guard that is or ought to be ſet over the ſources of the legiſlative power, namely, that every reſpectable order in the ſtate may have a proper ſhare in it, and every improper perſon be excluded from the truſt, ought alſo to be ſet over the diſtribution of arms or of force in the community. Where the law originates, there alſo is the proper depoſitary of the national force; and whoever has not the proper intereſt in the laws of his country is but ill entruſted with its defence.

In ordinary times, military ſervice, like the profeſſions of law, divinity, or medicine, may be entruſted to perſons who make it an honourable calling. But, it does not by any means follow, that they who have a real ſtake in the preſervation of an order eſtabliſhed ſhould forego the uſe of arms, and profeſs their inability to defend themſelves or their ſtate upon any emergence whatever. Or, if this ſhould be thought neceſſary, at any period of national progreſs, we cannot any longer be at a loſs to account for the vi-

ciſſitudes

ciſſitudes of human affairs, or the fatal reverſes in which the eſtabliſhed order of ranks is ſometimes overturned *.

The magiſtrate, in republican governments, is called to account at the expiration of his office; and even the monarch, whoſe office does not expire but with his life, may be called to account in the perſon of his miniſters: But the ultimate and eſſential ſecurity to liberty, or guard againſt the diſorders which are equally fatal to the ſtate of the magiſtrate as to the privilege of the people, is the character to be retained by thoſe who have any conſiderable ſtake in the welfare of their country, a character by which they are qualified, in the laſt reſort, to defend as well as to fulfil the ties of their ſtation. Public benefits enjoyed by one order of the community, and the defence of them entruſted to another, is indeed an abuſe, againſt which mankind have not perhaps yet any where found a permanent guard.

Such, however, are part of the reflections into which we are led in ſearch of means for the preſervation of juſt government, as well as precautions, which render executive power in the moſt extenſive dominions, conſiſtent with the freedom of the people.

Upon the faith of ſuch expedients as we have now mentioned, we may venture to deny that deſpotiſm is neceſſary to the preſerva-

 tion

* The preſent order of things in Europe originated in the aſcendance of perſons having arms in their hands. What was originally a cavalier or military horſeman, is now a gentleman; and, in the conſtitution of our own country, members returnable from the counties to parliament, as appears from the remaining form of the writ addreſſed to ſheriffs for this purpoſe, were to be military †; none being thought worthy of a place in the councils of ſtate, but ſuch as were armed for its defence.

† *Miles gladio cinctus.*

tion of order in the moſt extenſive dominions. It is indeed more difficult to preſerve liberty in great empires, than in ſtates of a moderate extent; becauſe they who are entruſted with the neceſſary powers, in ſuch inſtances, ever ſtruggle againſt the precautions of freedom as inconſiſtent with the energy of government.

For this reaſon, it is a principal intereſt of the citizen that the extent of his country ſhould remain within reaſonable bounds, acceſſible to juſtice in all its parts, without the exerciſe of a force dangerouſly conſtituted even for the authority that employs it, and too often underſtood to be turned at diſcretion againſt thoſe it is deſtined to protect.

The ſecurity of juſtice is, in every ſtate, the great intereſt of all parties, whether the governing or the governed; and whoever wiſhes to have it in his power to do wrong, whether the ſubject who would be exempt from the reſtraints of government, or the magiſtrate who would be exempt from the reſtraints of law, however little either propoſe to uſe his exemption, may, from the very deſire to poſſeſs it, be conſidered as an enemy to mankind.

SECTION XI.

Of National Felicity.

IN this attempt to ſolve the political problem, reſpecting what the citizen ought to wiſh for his country, we have not entered into any diſcuſſion of the comparative advantage of different forms of government, as they are commonly enumerated, under the titles of *democracy*, *ariſtocracy*, or *monarchy*. In the firſt, the ſovereignty is exerciſed by a majority of the people in their collective aſſemblies; in the ſecond, by a part or ſuperior claſs of the people, hereditary or elective; and, in the third, by a monarch or ſingle perſon, conducting his adminiſtration by proper officers, and agreeably to general rules or fixed laws which he himſelf may have laid down.

To theſe legal forms ſuſceptible of juſtice and wiſdom, other three have been ſometimes added; namely, *Ochlocracy*, in which the people govern by tumults rather than regular aſſemblies. *Oligarchy*, in which a few, without any genuine title of eſtimation or election, uſurp the government. And *Tyr-*

rany,

rany, in which a ſingle perſon governs according to his occaſional will, without any fixed rule or general laws. Theſe, indeed, are rather the abuſes neareſt to each of the regular forms, than conſtitutions having any pretence to the choice or approbation of mankind in any caſe whatever.

It appears to be the will of providence, that wherever there is ſociety there ſhould be government alſo; and, whatever be the government, it is the nature of man to accommodate himſelf to its forms, not always indeed with perfect contentment, nor always the reverſe; but he is affected in this, as in other parts of his lot, according to the humour he is in, not according to any preciſe ſtate of his fortune.

Monarchy has its admirers, as well as democracy; and it were vain, in moſt inſtances, to propoſe to the ſubject of either a ſudden change from the one to the other. Each is beſt fitted by his inclinations and his habits to the ſituation in which he is educated. It may therefore be aſked, to what purpoſe perplex ourſelves with queſtions on a ſubject in which our ſtate is already determined? We come with our ſchemes of what is beſt for mankind, like an architect with his plan after the houſe is built, and the lodger fitted to his mind. To diſlodge him for the ſake of eventual improvements, would be at leaſt to incur immediate calamity and diſtreſs, without any aſſurance of future advantage.

To the queſtion, that may be aſked in any particular caſe, To what government we ſhould have recourſe, or under what roof we ſhould lodge? The firſt anſwer, no doubt is, *The preſent!* Nay, but the preſent government may have its defects, as the walls or roof of the building in which we lodge may be inſufficient,

inſufficient, or threaten to fall on our heads. Then, ſet about the neceſſary repairs. In reſpect to your dwelling, the walls may be renewed or rebuilt in parts ſucceſſively; and, in reſpect to the adminiſtration of government, grievances may be redreſſed. But, in reſpect to the one, it is a wiſe maxim; *Beware you take not away ſo much of your ſupports at once as that the roof may fall in*: Or, in reſpect to the other, Beware you do not overthrow ſo much of your government at once as that the innocent have no protection againſt thoſe who may be diſpoſed to the commiſſion of crimes.

This caution, indeed, it may be difficult to apply in every caſe. In ſome inſtances, it may be ſaid of our dwelling, that the roof is actually falling, and the whole muſt be taken down: In reſpect to our political ſituation, that the oppreſſion of a deſpotic power, whether in the perſon of one or many, is incorrigible, and muſt be cut ſhort at once; for, while any meaſure of ſuch power remains, no reform can be obtained.

It is indeed the nature of extreme evil to be ſurrounded with calamities on every ſide; inſomuch that, in guarding againſt miſchief of one kind, ſome other muſt be incurred. And, although it may happen that the laſt remedy of a political evil, like a chirurgical operation, may be attended with more pain than was inflicted by the diſeaſe in any equal portion of time, ſtill the operation neverthele ſs is to be preferred to a perpetuity of the complaint.

As to the choice of a political eſtabliſhment, could we ſuppoſe nations acting wiſely in purſuit of public order and freedom, as defined in the foregoing ſections, it is probable they would proceed to ſomewhat different from either of the ſimple forms we have mentioned.

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The members of any community have never been found in ſuch a ſtate of equality as not to have a diſtinction of ranks, to the ſafety of which it is required that they ſhould have each a diſtinctive ſhare in the legiſlature of their country. Nor is it ſafe for the ſubject, of any denomination or claſs, to commit the enactment, as well as the execution of the law to any ſingle power. Hence we may aſſume, that, in purſuit of the political advantage in queſtion, a fortunate people will adopt ſome mixed rather than any of the ſimple forms.

The character of government is frequently taken from the executive power; and this, in conſiſtence with all the advantages we have mentioned, may be either a ſelect council, or magiſtrate; a ſingle perſon or monarch, hereditary or elective: And nations governed by any ſuch powers have not occaſion to change them, if at the ſame time they are fortunate in the conſtitution of the collateral, legiſlative, and judicative forms.

Where this is the caſe, there is greater danger from change than from any trivial inconvenience attending the actual order of things. And it may be ſafely aſſumed as a maxim under every eſtabliſhment whatever, That the preſent order, if tolerable, is to be preferred to innovation, of which, even in very ſmall matters, it may be difficult, and is often above the reach of human wiſdom, to foreſee all the conſequences or effects.

Grievances nevertheleſs, under the faireſt government, may take place, and muſt be redreſſed; and whoever has a grievance to plead muſt be heard; whilſt he who, without any complaint of grievance, has gone forth in ſearch of ſpeculative melioration, or improvement, not abſolutely required to the ſafety of his coun-

try,

try, is to be dreaded as a moſt dangerous enemy to the peace of mankind. He would, without neceſſity, unſettle the minds of men on a point on which it is highly expedient they ſhould never be unſettled, to wit, the reality of an actual authority to which they are bound to ſubmit in all caſes that concern the peace and good order of their country.

Here, however, it muſt be admitted that, where men are leaſt diſpoſed to innovation, changes imperceptibly ariſe, whether in the ordinary courſe of things, as in the progreſs of arts, or in the ſucceſſion of events. And, as men are the actors in this political ſcene, whether ſeemingly ſtationary or tranſient, it behoves them to know the good of which they are ſuſceptible, and the evil to which they are expoſed. The ſceptic may conteſt any ſerious diſtinction in this matter; and, as men are ſo variouſly accommodated, inſiſt that every age or nation ſhould be left to pleaſe itſelf. The ſlave, we are told, is often more chearful and gay than his maſter, and the ſubject of abſolute monarchy more undiſturbed, than the citizen of a fair republic: And if we reaſon from the taſtes of men, we muſt leave every one to chuſe for himſelf. This is pleaded in matters of private as well as public felicity; but, ſo long as human nature has its viſible deſtination, in the perfection or excellence of which it is ſuſceptible, we muſt be allowed to ſcrutinize the taſtes as well as the attainments of men.

When, under one ſpecies of eſtabliſhment, we obſerve the perſons and poſſeſſions of men to be ſecure, and their genius to proſper; under another, prevalent diſorder, inſult, and wrong, with a continual degradation or ſuppreſſion of all the talents of men, we cannot be at a loſs on which to beſtow the preference.

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For forms of government let fools conteſt:
The beſt adminiſter'd is always beſt.

Thus ſings the poet: But, in order to juſtify the charge of folly he has brought in this couplet, he ought to have ſung alſo, that one form of government is as likely to be well adminiſtered as another; or that men are no way the ſafer for having it in their power to check the infringements which may be attempted on their rights.

If it be required to continue this argument beyond what has been already offered on the ſubject of population, national reſources and liberty; a few obſervations may be indulged on the ſubjects of wealth, public peace, and good order, on which men are commonly inclined to eſtimate the felicity of nations.

Of theſe, indeed, ſome may be conſidered as the ſymptoms, others as the invariable conſtituents of national happineſs.

Wealth is at leaſt the ſymptom of national felicity, ſo far as it argues the preſence of *induſtry*, *frugality*, and *ſkill*, with the *ſecurity of property*, and a *regular adminiſtration of juſtice*. Theſe are the appurtenances of public virtue, and, as ſuch, the conſtituents of good to mankind.

But, if we ſuppoſe wealth to come from any other ſource than theſe; or, to come as it does to conquering nations, by rapine, and to thecourts and capitals of great empires, by the oppreſſion of provinces; it is not, in reſpect to its ſource, or in reſpect to the effects it is likely to produce, either ſymptomatic, or productive of any national good whatever.

As

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As riches give ſcope to evil paſſions, and, where obtained by injuſtice, argue the preſence of ſuch paſſions, they are a ſymptom of miſery rather than of happineſs: They are productive of prodigality, licentiouſneſs, and brutal ſenſuality. Such was the miſery, not the felicity of Rome, become the capital of a great empire, a centre to which the wealth of nations was collected, and at which it was conſumed in groſs ſenſuality, or in cruel and idle oſtentation of power.

It were folly, therefore, to felicitate a nation on the meaſure of its opulence, the extent of its territory, the multiplicity of its conqueſts, or the profuſion of wealth that may run to waſte in its capital, without regard to the origin or uſe of theſe advantages.

The tendency of human affairs in the reſult of proſperity, indeed, is to enlargement of empire; and it is difficult to reſtrain this tendency without a riſk of misfortune on the oppoſite extreme. In the conteſt of nations, it happens ſometimes that, of contending parties, either muſt conquer or be conquered; but it is evident that although, in the ſtruggle of two or more nations for ſecurity or independence, the event may give to either a dangerous aſcendant; yet they ought not to indulge a wiſh beyond that of ſafety to themſelves. And, in the midſt of ſuch dangers, the beſt doctrine that can be inculcated on the minds of men, is a decided opinion that conqueſt is no advantage to thoſe who make it, any more than to thoſe over whom it is made.

War is juſtly avoided, and peace among mankind is admitted to be a ſupreme object of conſideration and deſire: But we muſt not therefore enjoin it as an article of wiſdom for nations to diſ-

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continue their military policy, and to neglect preparations for their own defence. Theſe are often the ſureſt preſervatives of peace, and, joined to a ſcrupulous attention to abſtain from wrongs or unneceſſary provocations, are all that the moſt pacific nation can do to avoid the miſchiefs of war. Peace is recommended as an article of wiſdom; and the wiſe do not recur to war as the means of acquiſition, but as the means of preſervation or ſafety. But war may be neceſſary, although it be not deſirable on its own account; and it were folly, in reaſoning of mankind, to conſider the time of neceſſary war among nations as a period of miſery, or the time of peace as of courſe a ſeaſon of happineſs. In either conjucture, the vices and follies of men may predominate; but, in either conjuncture, alſo, men have occaſion to exerciſe their beſt affections and faculties: and, by this alone, the prevalence of good or ill, of public happineſs or miſery, can ſafely be determined. It is the will of providence, that men have occaſion ſometimes to maintain the cauſe of their country againſt its enemies; and, in ſo doing, the virtues of human nature are its happineſs, no leſs than they are ſo in reaping the fruits of peace.

With reſpect to internal tranquillity, it is ſurely a bleſſing for citizens to be exempt from injury, be the quarter from which it come what it may; and this alone is to enjoy peace. But, to be expoſed to wrongs, without any power of defence or reſiſtance, is not peace, but war that broods on the mind with animoſities of the moſt rancorous kind. Such a war in the dominions of deſpotical empire is termed peace and tranquillity; but the wrong that is done in ſuch inſtances to the paſſive ſufferer, like every other evil, is juſt ſo much the worſe that nothing is done to counteract or redreſs it.

The

The war that ſubſiſts in deſpotical governments, between the oppreſſor and the oppreſſed, conſiſts of injury, indeed, all of one ſide; but, in having wrongs endured without remedy is ſo far from approaching to peace, that the neceſſity of tame and helpleſs ſubmiſſion impoſed by the party oppreſſing on the party oppreſſed, is either felt as an accumulation of injuries, of which the firſt aggreſſion is but a part; or, in being tamely endured, and received with ſentiments of fear rather than reſentment, it compleats the debaſement of thoſe by whom it is ſuffered.

It is not ſo much the phyſical evil which a tyrant may inflict either in reſpect to the perſon or property of his ſubject, that aggrieves the liberal mind, as the idea held forth under the deſpotical government, that, whilſt one has a right to inflict ſuch evils, the other is bound to ſuffer at diſcretion. The diſciplined ſoldier or ſailor is expoſed to ſuffer much more from an enemy than from the moſt ſevere or capricious will of an officer who is diſpoſed to abuſe his command; yet he contends againſt an enemy with an alacrity and even gaiety of ſpirit and of courage, while he ſinks under the caprice of the other with dejection and ſorrow.

The pretenſion of a right in any one to abſolute dominion, or to a property in his fellow creature, was the evil from which Cato withdrew at Utica, and from which the worthieſt citizens of Rome, under the ſucceſſors of Cæſar, continued to withdraw, after repeated endeavours to reconcile themſelves to the ſtation in which they were placed. " It does not become me to defer any " longer," ſaid Aruntius, who, being threatened with a proſecution from the agents of Tiberius, was importuned by his friends to await the end to which the declining age of the tyrant was faſt approaching,

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approaching, "I have already delayed too long in the midſt of "dangers, inſults, and the mockery of juſtice. If I ſhould ſur-"vive the old age of one tyrant, what better proſpect awaits me "in the youth of his ſucceſſor *."

It was the idle aſſumption of diſcretionary power, originally, perhaps, in matters of ſmall moment, not any flagrant acts of oppreſſion or cruelty, that rouſed the ſpirit of our anceſtors to a revolt, which, after a ſucceſſion of mutual provocations, and the interference at laſt of deſperate adventurers, ended in the murder of one of the moſt innocent of our kings.

The claim of a right to govern at diſcretion, until it have produced ſome effect, may be no more than a form of words: If it operate only in acts of beneficence, ſuch diſcretion is beloved, and is indeed veſted in every perſon alike; but, ſo ſoon as it appears in miſchief, the pretence of a right to do wrong is abſurd; and any ſuch aſſumption, with the proſpect of indefinite abuſe, is itſelf an act of hoſtility againſt which the ſpirits of men revolt more than againſt any phyſical harm that may proceed from violence or occaſional paſſion.

Next to the intire abſence of hoſtility, or a perfect exemption from injuries, we may reckon among the conſtituents of peace the juſt powers of redreſs, or even reſiſtance, which the conſtitution of juſt government employs in behalf of the injured.

The paſſions of men may produce aſſault and provocation, under any ſyſtem of human policy; but, in mere aſſault, there is but one injury, of which the effect is greatly abated in being reſiſtible, as well as in the means of reparation which are provided.

* Tacit. Annal. lib. vi. c. 48.

vided. And we are not to eftimate the evils incident to fociety fo much from the perfonal fufferings that may be occafionally incurred even under the freeft government, as from the fuppreffion of every claim to redrefs which compleats the tyrrany that is exercifed by a defpot, or by the diforderly tumults of a corrupted people.

Men are deftined to play in human life for manifold ftakes of unequal importance. The merchant plays for profit, and is expofed to lofs. The warrior plays for victory or conqueft, and expofes his life. Every one who would better his fituation in point of fortune, preferment, or honour, hangs in fufpence between the oppofite events of fuccefs or difappointment. What was ftaked among the ancients, in their national quarrels, was of greater importance than is rifked at war by the officer or foldier in any modern nation of Europe. When captives or prifoners of war were retained in fervitude, or fent to the market for flaves, the foldier expofed not only his life but his perfonal freedom alfo. This violation of natural law was enforced by the Romans in all their wars, and by the Greeks put in practice in their contefts not only with barbarous nations, but even with one another. "During the Peloponefian war" fays an eminent writer, "and "for many years after its conclufion, all the different repub-"lics of Greece were, at home, almoft always diftracted by the "moft furious factions, and abroad involved in the moft fangui-"nary wars, in which each fought not merely fuperiority of do-"minion, but either compleatly to extirpate all its enemies, or what "was not lefs cruel, to reduce them into the vileft of all ftates, that "of domeftic flavery; and to fell them, man, woman, and child, like "fo many herds of cattle to the higheft bidder in the market."

If

* Vid. Theory of Moral Sentiments, by A. SMITH.

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If, from this account of the Greeks, it be propofed to infer that they were a wretched people, there is reafon to queftion the truth of any fuch inference. The fortunes of men do not always decide of their feelings. Cervantes, we are told, wrote his adventures of Don Quixote in a prifon; and, from fo vigorous an exercife of all his faculties in that fituation, we have reafon to conclude that a perfon may be in jail without being wretched. The human mind gave fimilar proofs of felicity no where more confpicuous than in Greece. And if human life be compared to a game, it was played among ancient nations, and among the Greeks in particular, upon a ftake no lefs indeed than is ftated in the above paffage, of freedom as well as life. But their example fhould lead us to think that the fpirits of men are not greatly damped by the rifks which they are made to run in the fervice of their country. The firft citizens in every Grecian ftate, with this profpect of eventual flavery before them, took their poft with alacrity in the armies that were formed for the defence or advancement of their country: And in no quarter of the world was the military character held in higher efteem. Thofe nations, at the fame time, in other refpects, carried marks of felicity fuperior to what has ever been difplayed in any other quarter of the world or age of mankind. In their very language, there is evidence of genius, or intellectual ability, fuperior to that of other nations. The order and form of their expreffion kept pace with the order and difcrimination of fubjects to be expreffed, with all the poffible varieties of relation, and with all the fubtilities of thought and fentiment, beyond what is exemplified in any other known inftance. They led the way alfo in all the forms of literary compofition or difcourfe, under which the human genius is difplayed. Their poets, hiftorians, orators, and moralifts, preceded thofe of other nations, and remain

remain unequalled by thoſe that came after them. Their ſculptors, painters, and architects, excelled thoſe of every other nation; and the ſame genius which roſe towards every object, in which excellence or beauty could be required or exhibited, gave alſo the moſt maſterly examples of civil, political, or military virtues; and, in the whole, gave the moſt irrefragable evidence of minds no way ſunk by the ſenſe of oppreſſion, or the gloomy proſpect of hazards impending from the loſs of liberty, or the fear of ſlavery to which they were expoſed. The eaſe and alacrity with which they moved on the higheſt ſteps of the political, the moral, and intellectual ſcale, abundantly ſhewed how much they enjoyed that life and freedom, of which they were ſo worthy, and which they ſo freely riſked in the ſervice of their country. And if the hazard of bleſſings which they ſtaked in every public conteſt had at all any effect on their minds, their example may ſerve to prove, that men are not unhappy in proportion to the ſtake for which they contend; or, perhaps, what is verified in the caſe of other players as well as in theirs, that perſons who are uſed to a high ſtake cannot condeſcend to play for a lower; or that he who is accuſtomed to contend for his freedom or his life can ſcarcely find ſcope for his genius in matters of a lower concern.

A warden of the Engliſh marches, upon a viſit to the court of Scotland, before the acceſſion of James to the throne of England, ſaid he could not but wonder how any man could ſubmit to ſo dull a life as that of a citizen or courtier: That, for his own part, no day ever paſt in which he did not purſue ſome one for his life, or in which he himſelf was not purſued for his own. It is the degradation of fear, the guilt of injuſtice or malice, to which the mind of man never can be reconciled; not the riſks to which the liberal may be expoſed in defending his country, or in withſtanding iniquity.

We are, for the moſt part, ill qualified to decide what is happy or miſerable in the condition of other men at a diſtance. The inconveniences, which we ſee, may be compenſated in a way which we do not perceive. And there is in reality nothing but vileneſs and malice that cannot be compenſated in ſome other way. Even thoſe we call ſlaves are amuſed in the performance of their taſk, and, when it is over, are obſerved to be playſome and chearful beyond other men. They are relieved of any anxiety for the future, and devolve every care on their maſter.

We eſtimate the felicity of ages and nations by the ſeeming tranquillity and peace they enjoy; or believe them to be wretched under the agitations and troubles which ſometimes attend the poſſeſſion of liberty itſelf. Under this apprehenſion the forms of legiſlature we have propoſed implying numerous aſſemblies, whether collective or repreſentative, may be cenſured as expoſing men to all the inconveniencies of faction or party diviſion; but, if theſe inconveniencies are to be dreaded, they nevertheleſs may be fairly hazarded, for the ſake of the end to be obtained in free governments, the ſafety of the people, and the ſcope which is given to all the reſpectable faculties of the human mind.

If we have not miſtaken the intereſts of human nature, they conſiſt more in the exerciſes of freedom, and in the purſuits of a liberal and beneficent ſoul, than in the poſſeſſion of mere tranquillity, or what is termed exemption from trouble. The trials of ability, which men mutually afford to one another in the colliſions of free ſociety, are the leſſons of a ſchool which Providence has opened for mankind, and are well known to forward, inſtead of impeding

their

their progreſs in any valuable art, whether commercial, elegant, or political.

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Under the laſt of theſe titles, more eſpecially, we had occaſion to obſerve, that the moſt important objects of human concern, and the moſt improving exerciſes of ability, are furniſhed to the members of a free ſtate *: And we may now alſo aſſume that forms of government may be eſtimated, not only by the actual wiſdom or goodneſs of their adminiſtration, but likewiſe by the numbers who are made to participate in the ſervice or government of their country, and by the diffuſion of political deliberation and function to the greateſt extent that is conſiſtent with the wiſdom of its adminiſtration.

While thoſe who would engroſs every power to themſelves may gravely tell us, that the public good conſiſts in having matters ordered in the manner they conceive to be right, we may venture to tell them in return, that it conſiſts ſtill more in having proper numbers admitted to a ſhare in the councils of their nation: That, although the proverb in a particular inſtance ſhould fail, and the *multitude of council for once be inferior in wiſdom*, yet the multitude of council is really in itſelf a greater public advantage, than the talents of any ſingle perſon, however great, can otherwiſe procure for his country. Single men may chuſe a meaſure, or conduct a particular ſervice, better than might be obtained in any concourſe of numbers: But numbers do more in a ſucceſſion of ages, than any ſingle man could obtain; and man nature is more intereſted in having nations formed to the character of manhood and public virtue, than it is in any particular meaſure of conduct, or the moſt ſucceſsful attainment of any particular object.

* See Vol. I. Section, Of the Political Arts.

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We are ſometimes checked in the commendation of free conſtitutions of government, by an obſervation that party diviſions are moſt flagrant in ſuch inſtances, and the turbulence of free ſtates is contraſted with the ſeeming tranquillity of deſpotical government, as an evidence that it it happier for mankind to be governed at diſcretion, than to be indulged with freedom, or be admitted to any ſhare in the government of the community of which they are members. But we have already conſidered what is to be thought of a peace or tranquillity, which conſiſts of injury all of one ſide, and which is followed by the denial of redreſs or impoſſibility of reſiſtance.

Wherever men are free to think and to act, errors will be incurred, and wrongs will be committed: But the error that reſults from the freedom of one perſon is beſt corrected by the wiſdom that reſults from the concurring freedom of many. And the crimes of a few loſe their effect in the reſiſtance they meet with, or in the means of redreſs that is provided for them: But for the errors or crimes of a deſpotic maſter, or the violence of a diſorderly populace, there is neither correction nor redreſs: It is ſedition, or hereſy, or madneſs, to diſpute their opinions, or to reſiſt their power.

In free ſtates, even where men do not act from any culpable defect of underſtanding or criminal diſpoſition, they are ſeldom all of one mind, on any ſubject whatever. The converſation of good men very often takes the form of debate or controverſy; and it is indeed in this form they are moſt likely to receive from one another mutual inſtruction and improvement of thought.

thought. The freedom of converfation, therefore, whether relating to matters of public deliberation or private concern, is at once a fymptom of juft as well as of vigorous government: And on this fubject we may venture to obferve, by the way, that the zealots for liberty fometimes miftake their aim in fuppofing that they cannot exceed in weakening the powers of the magiftrate, or in taking meafures to reftrain him, by which they would fcarcely leave him enough for the fuppreffion of crimes. So reduced, he is jealous of the moft innocent freedoms, and dreads a too familiar infpection of his meafures as want of refpect to his perfon or his ftate. Hence the citizen is obliged to be more guarded in his talk at Berne or at Venice, than he was at Paris, even when the Baftile remained yet undemolifhed. In vigorous governments, whether pure or mixed, and under the adminiftration of magiftrates who have nothing to fear from the difcuffion of private companies, or even the impertinence of miftaken cenfure, there is frequently great freedom of fpeech as well as thought.

It has been obferved, in a former part of this work, that it is wifely ordered in this fchool of intelligence, which is opened for man in the fcene of nature, that there fhould be obftructions and difficulties to be met with, adequate to the power with which he is furnifhed, and fitted to give thefe powers their full exertion, whether in producing mere phyfical effects, in carrying his fellow creatures along with him, or in furmounting the impediments which they mutually furnifh in the courfe of their oppofitions. And in clofing our view of the fubject we may now obferve, that the congregation of men is not, in any inftance, to be confidered as an aggregate of ftill or quiefcent materials, but is a convocation of living and active natures: That the order of which they

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they are fufceptible is not merely, like ftones in a wall or an arch, that of relative pofition and place, but of activity, and of co-operation in different functions, or of balance, counterpoife, and mutual correction, where the operation of any fingle power might be partial and wrong, but the general refult is falutary and juft.

Such is the living order of nature throughout; and the amount of this argument, relating to the felicity of nations, may be fummed up in thefe comprehenfive though vague expreffions, That the felicity of nations is proportioned to the degree in which every citizen is fafe; and is moft perfect where every ingenuous or innocent effort of the human mind is encouraged; where government devolves on the wife; and where the innoffenfive though weak is fecure.

In focieties that approach the neareft or recede the fartheft from this defcription, the individual may, in his own part, be either wretched or happy. Clodius was a wretch in the abufe of a freedom which he took up in the midft of diforder and faction; and Helvidius or Thrafea was happy, though under a tyrrany by which their country was oppreffed. Every one indeed is an-anfwerable only for himfelf; and, in preferving the integrity of one citizen, does what is required of him for the happinefs of the whole.

THE END.